

Volume 4

Pages 472 - 571

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Orrick, Judge

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	NO: CR 15-582 WHO
)	
VS.)	Page 513, Line 14 to
)	Page 515, Line 21
Adam Shafi,)	Sealed and Bound Separately
)	
Defendant.)	
)	

San Francisco, California
Friday, August 31, 2018

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff: United States Attorney's Office
450 Golden Gate Avenue
San Francisco, California 94102
BY: S. WAQAR HASIB, ESQ.
ELISE LAPUNZINA, ESQ.

For Defendant: Office of the Federal Public Defender
1301 Clay Street, Suite 1350N
Oakland, CA 94612
BY: HANNI M. FAKHOURY, ESQ.
JEROME E. MATTHEWS, ESQ.

Reported By: Vicki Eastvold, RMR, CRR
Official Reporter

I N D E X

Friday, August 31, 2018 - Volume 4

<u>PLAINTIFF'S WITNESSES</u>	<u>PAGE</u>	<u>VOL.</u>
REINKE, CHRIS (RECALLED)		
(PREVIOUSLY SWORN)	487	4
Direct Examination resumed by Mr. Hasib	487	4
Cross-Examination by Mr. Fakhoury	504	4
Redirect Examination by Mr. Hasib	560	4
Recross-Examination by Mr. Fakhoury	566	4

PROCEEDINGS1 Friday - August 31, 2018

7:45 a.m.

P R O C E E D I N G S

3 (The following proceedings were held in open court, outside the
4 presence of the jury:)

5 ---000---

6 **THE COURT:** All right. Let's proceed. Good morning,
7 everybody. There are a couple of things to do. The first -- I
8 assume you've had no further conversations with respect to
9 Dr. Vidino.

10 **MR. FAKHOURY:** Well, I think we have irreconcilable
11 difference of opinion.

12 **THE COURT:** So let me give you mine on this. Although
13 in the normal circumstances I would allow it, I'm not going to
14 in this case. I think the jury hasn't heard the government's
15 evidence about what happened during the time period of the
16 indictment. I think it would be confusing for Dr. Vidino to go
17 in before Special Agent Reinke finishes. Special Agent
18 Reinke's a critical witness and I think it's unfair not to
19 allow his cross-examination before Dr. Vidino gets on the stand
20 because otherwise I think there would be an undue amplifying
21 effect of the testimony.

22 And, I would like to be in trial on Tuesday if things
23 can't finish today, but if Dr. Vidino has unmovable appointment
24 then we can -- I would prefer to go dark on Tuesday and start
25 on Wednesday than to allow this testimony to be interrupted.

PROCEEDINGS

1 So I think -- find out from Dr. Vidino whether it's really
2 pivotal.

3 And the other thing is I would be happy to hold the trial
4 a little longer today if the jury was able to do it, unless
5 they have some irreconcilable appointments, just so that we
6 could finish things up.

7 **MS. LaPUNZINA:** Thank you, Your Honor.

8 **THE COURT:** So that's that. I don't think any further
9 argument's necessary.

10 **MR. HASIB:** Will the Court inquire of the jury before
11 they get here? Or -- not before they get here. I don't know
12 how the Court's going to do that. But when they get here will
13 the Court inquire whether they're available after 1?

14 **THE COURT:** Yes. I'll ask Ma'am Clerk to do that to
15 see whether there would be a problem. And it would be no more
16 than an extra hour. We couldn't go, I don't think, the full
17 day. But whatever we can do. We'll see how it goes.

18 **MR. MATTHEWS:** Your Honor, there's one more issue.
19 You recall we had to have a sidebar with one of the jurors
20 about possible testimony regarding Burma and his potential
21 connection to and possible reaction to that.

22 If I recall, I think there's going to be two or three
23 instances, if Mr. Hasib intends to go line by line with Special
24 Agent Reinke, where there will be two additional mentions, I
25 believe, of Burma or going to learn how to speak Burmese.

PROCEEDINGS

1 So it might be appropriate after that time to just have a
2 quick follow-up and possibly confirm with the juror whether at
3 that point he thinks there's anything that would prevent him or
4 influence him unduly in rendering a fair verdict.

5 **THE COURT:** And perhaps we should wait until the end
6 of the -- until next week and then check in with him to see
7 whether there's any issue.

8 **MR. MATTHEWS:** Right. I think that's fine. I just
9 wanted to highlight it. And given the fact we will have this
10 additional testimony on the issue be something to bring up at
11 the appropriate time.

12 **THE COURT:** Fair enough.

13 Okay. So since we have a couple of extra minutes I had
14 said that we would have a jury instruction conference at 3. I
15 don't think it's necessary to hold Mr. Shafi over until 3 for
16 that. And I think I can tell you what I'm thinking now and you
17 can -- if you want to make any particular kind of pitch at 1:00
18 on this you can. And otherwise, if you wanted to give me short
19 briefs on why I've got it wrong that would be fine.

20 So I'll just tell you that with respect to the First
21 Amendment issue, I agree with the government's instruction.
22 The *Hassan* instruction. I think the government's theory
23 regarding material support is personnel, it's not speech. And
24 I think the defendant's proposed instructions would be
25 confusing and potentially misleading.

PROCEEDINGS

1 And I am otherwise a big fan of the Ninth Circuit's model
2 instructions which I think the government's versions of
3 reasonable doubt, and attempt, and material support or
4 resources is closer to that line. And I think the defendant's,
5 particularly with respect to material support or resources, is
6 somewhat confusing.

7 With the foreign terrorist organization, I'm inclined to
8 give the defendant's, but I'm not sure if there's substantial
9 differences between the two. I just didn't see it.

10 And then I need a verdict form which you could give me on
11 Tuesday.

12 **MS. LaPUNZINA:** We'll prepare one, Your Honor.

13 **THE COURT:** So those -- that's what I'm thinking. And
14 if you want to talk about those briefly at 1:00 -- or not
15 briefly at 1:00 -- we can do that. But then I think we can let
16 everybody go for the weekend.

17 **MR. MATTHEWS:** That would be great.

18 **THE COURT:** And then the final -- was there something
19 you wanted to say, Mr. Hasib?

20 **MR. HASIB:** No, no, no. Continue, Your Honor. Your
21 Honor may get to it. If not, I'll raise it.

22 **THE COURT:** I'm going to another issue entirely.

23 **MR. HASIB:** It's not on jury instructions.

24 **THE COURT:** Then I saw the government's brief on the
25 summary timeline and I looked at the cases this morning. And,

PROCEEDINGS

1 again, I'm going to deny the government's motion.

2 It seems to me that the timeline is just -- it's not a
3 Rule 1006 summary. It's a cherry-picked view of the evidence
4 from the government's perspective from a number of voluminous
5 records. It's very unlike the real estate records in
6 *United States versus Rizk*. And it's much like the analysis in
7 the other case that the government cited, *Davis and Cox v.*
8 *Summa Corp* of the attorney's fees record summary that the judge
9 didn't admit because it didn't fairly represent the underlying
10 documents.

11 So -- and I will not allow the timeline to go back to the
12 jury. So you have to make clear what you need to make clear
13 during closing.

14 **MR. HASIB:** Yeah.

15 **THE COURT:** So those were the things that I had -- oh.
16 And then the final thing, which is left over from yesterday,
17 Mr. Fakhoury asked that I give a more detailed instruction
18 regarding the other acts.

19 I'm not sure that -- I don't think it's required. I could
20 say to the jury that I'd like to be a bit more specific and
21 that they could consider the evidence only for its bearing, if
22 any, on the question of the defendant's intent, mode of
23 opportunity, preparation, plan and knowledge and for no other
24 purpose. And I'm not sure that that's all that -- I'm not sure
25 the defense would want me to give that instruction. And I'm

PROCEEDINGS

1 not sure what the government's perspective is one way or
2 another. But I could do that and it wouldn't do violence to my
3 view of the reason that the evidence is being produced.

4 **MR. FAKHOURY:** We can live with the instruction as
5 given. That's fine, Your Honor. Meaning, the instruction
6 given yesterday.

7 **THE COURT:** I would think. Okay.

8 Mr. Hasib.

9 **MR. HASIB:** I do have one other issue on my list of
10 things to talk about this morning. There was an objection
11 yesterday when we tried to offer some text messages into
12 evidence and the Court suggested the parties should talk about
13 it. We talked about it. I think we are perhaps closer but not
14 there yet.

15 **THE COURT:** Okay.

16 **MR. HASIB:** So what the government offered yesterday
17 was a pretty large exhibit -- I can't remember how many pages,
18 but it was at least a couple hundred -- of the text messages
19 that were recovered from the defendant's phone. It was a
20 printout from the Cellebrite report which is all of the
21 defendant's text messages. And we were going to highlight a
22 couple that Special Agent Reinke was going to talk about and
23 ended up reading from yesterday.

24 The defendant objected. And our understanding was the
25 objection was that the report was hearsay and it should not

PROCEEDINGS

1 come in.

2 What we've done -- we disagree with that assessment. What
3 we've done is we've limited the report to just the text
4 messages that (indicating) Special Agent Reinke read about
5 yesterday and some others that we expect he's going to talk
6 about this morning.

7 I do not believe they are hearsay. I believe this is
8 evidence that has come directly from the defendant's phone.
9 The text messages that he sends to other people are defendant's
10 admissions. The text messages that other people send back to
11 him in response I think Your Honor has made clear are
12 admissible not for the truth of the matter asserted.

13 The other information on the exhibits are the dates and
14 times and sort of identifying information for the text
15 messages. I don't think these are hearsay, I don't think these
16 are police report; I think these are tangible evidence. And
17 that's what we would propose offering today into evidence while
18 Reinke's on the stand.

19 **THE COURT:** Okay. So Mr. Fakhoury, I looked at those
20 during the testimony yesterday after you made that objection.
21 They're not police records. They might be something else, but
22 I don't know why what Mr. Hasib suggests wouldn't be
23 appropriate.

24 **MR. FAKHOURY:** Well, Your Honor, in our view it's a
25 police report. Let me explain why.

PROCEEDINGS

1 I don't question that the message Mr. Shafi sends is an
2 admission. The question is the form in which his admission
3 comes into evidence.

4 If the government took a copy and paste of that Cellebrite
5 report and put it in a FBI 302 and it had Mr. Shafi's
6 statements in it, that FBI 302 would not come into evidence.

7 So it's the same exact thing. It's a Cellebrite report.

8 We've heard three witnesses testify that Cellebrite's an
9 FBI-approved forensic tool. It has information that is outside
10 the scope of just simply Mr. Shafi's statement. And so that's
11 why it's a police report.

12 I think it would be a different -- it's -- actually,
13 there's a pretty stark contrast with like the Google records.
14 So the Google records we didn't object on hearsay because
15 that's a business record. Those are records the government
16 obtained from Google. It's a business record. We can't
17 quibble with that.

18 This is not a business record. These are not records
19 obtained from T-Mobile. Nor is it the actual -- the phone
20 itself has not been admitted into evidence. And so this is
21 simply a police-generated report from Cellebrite documenting
22 evidence it intends to admit.

23 I obviously can't complain if Agent Reinke, as he's done
24 so far, testifies about the substance of Mr. Shafi's
25 statements; and with a limiting instruction, any responses

PROCEEDINGS

1 offered by anybody else he's communicating with. But to send
2 in the actual report, the police -- the FBI-generated
3 documentation of the messages from an FBI-generated technology,
4 an FBI-generated forensic -- an FBI forensic examiner who's the
5 one producing this, that's a police report. It's a very 21st
6 century police report, in our view, but it's a police report
7 all the same. They wouldn't be allowed to put in a 302 that
8 had a copy and paste of the exact information.

9 **MR. HASIB:** If it was a 302, Your Honor, I would
10 readily agree with Mr. Fakhoury. And it's not. And I think
11 now that you've looked at it you see what it is.

12 The only other option, frankly, is for us to bring the
13 phone into evidence and read from what's on the phone. That's
14 why we have Attachment C in this district because the
15 government is required to make a forensic image of the device
16 and then give the phone back.

17 I suggested yesterday that we had given the phone back.
18 Candidly, I haven't had a chance to look through our records to
19 determine where the phone is right now. But that's our only
20 other option. All we have right now that's available to us is
21 the forensic image. And that is pulled -- the forensic image
22 is essentially what you're looking at. That's how it looks.

23 **MR. FAKHOURY:** Again, the issue is not whether there
24 can be testimony about the contents of the phone. We readily
25 agree the government can elicit testimony about the contents of

PROCEEDINGS

1 the phone. The question is does the report go into evidence?
2 In our view, we've got to stop there. The report itself
3 doesn't come in.

4 Agent Reinke can testify. Ideally he testifies from his
5 own personal recollection. Of course, I understand he's not
6 going to remember every text message on the phone and he can
7 use the report to refresh his recollection. And that's
8 essentially what was happening yesterday. We weren't objecting
9 to that.

10 The issue is the admission of the Cellebrite report, not
11 the substance of the conversation -- or, not the substance of
12 Mr. Shafi's statements nor the surrounding context by other
13 individuals with a limiting instruction.

14 **THE COURT:** So couple questions. First, I assume that
15 there aren't any cases regarding the Cellebrite reports one way
16 or another.

17 **MR. HASIB:** I haven't --

18 **MR. FAKHOURY:** I didn't look, Your Honor.

19 **THE COURT:** Well --

20 **MR. FAKHOURY:** I can do that.

21 **THE COURT:** And then second, my assumption is that the
22 -- that you've had this information and have had the ability to
23 test the information, the accuracy of the information. So this
24 is really just -- this is a 302 kind of argument that you're
25 making.

PROCEEDINGS

1 **MR. FAKHOURY:** I certainly have had the forensics of
2 the phone. I'm not claiming that the Cellebrite report has a
3 defect. And we didn't cross on that. That's not the issue.

4 Again, the issue is --

5 **THE COURT:** I understand what the issue is.

6 **MR. FAKHOURY:** Thank you.

7 **THE COURT:** Okay. So I'm -- for now I'm not going to
8 admit this. I do -- well, we've already got 137, or whichever
9 exhibit it is, has been introduced. Is that true?

10 **MR. HASIB:** Yes. So the master set of all the text
11 messages.

12 **THE COURT:** The master set has been introduced. And
13 the foundation laid.

14 **MR. HASIB:** Correct.

15 **THE COURT:** So then the question is for the subset.
16 And maybe the thing to do is to identify this, have Agent
17 Reinke explain what it is, and I will think about the admission
18 of the document. And if the government is fortunate enough to
19 rest today, we can leave that open and I'll deal with it on --
20 whenever we resume. Hopefully Tuesday morning.

21 **MR. HASIB:** May we publish it today as a demonstrative
22 so the jury can see what it is?

23 **MR. FAKHOURY:** And our view would be that would be
24 redundant of the summary. The substance of what's in the
25 messages is already in the summary that's been used as a

PROCEEDINGS

1 | demonstrative so I don't see the need to do that.

2 It's a different scenario with like the email receipts of
3 the plane tickets, for example, or the bank records. The
4 substance of a bank record looks markedly different than the
5 line item on the summary. But this is a verbatim copy of
6 what's on the summary, in essence. So it's redundant of the
7 summary. I mean, they have the summary already. I think we
8 should just leave it at that.

9 **THE COURT:** I think I would allow a one showing of
10 what this is that he's referring to, but not repetitively. In
11 other words, so the jury can see what this looks like
12 (indicating.) What the Cellebrite report is reporting and the
13 manner in which it's reporting. But I don't want you to use it
14 every time just to show that. And then Agent Reinke can
15 continue on and discuss what the admissions are.

16 **MR. HASIB:** Okay. I think I got it. And I think I
17 heard Mr. Fakhoury say if Agent Reinke needs it for refreshing
18 recollection while he's on the stand --

MR. FAKHOURY: There's no issue with that.

THE COURT: Thank you.

21 MR. HASIB: I think I understand.

22 **THE COURT:** All right. So we'll be back in five
23 minutes.

24 (Recess taken at 8:00 a.m.)

25 (Proceedings resumed at 8:05 a.m.)

PROCEEDINGS

1 **THE COURT:** So we can go an extra hour if necessary
2 today. And with that, let's get the jury.

3 (The following proceedings were heard in open court in the
4 presence of the jury:)

5 **THE COURT:** All right. Please be seated, everybody.

6 Ladies and gentlemen, good morning. Thank you for being
7 here, for being so prompt, and for your flexibility. We'll see
8 how the day progresses as to whether we need to go past 1:00.
9 And we will have an absolute firm cutoff by 2:00 regardless of
10 what's going on. But that's helpful for us for planning
11 purposes.

12 And so Special Agent Reinke's on the stand. Go ahead,
13 Mr. Hasib.

14 **MR. HASIB:** Thank you, Your Honor. Before we start, I
15 notice that television in the corner is kind of not doing
16 anything. Can we turn it?

17 **THE COURT:** I think that would be a lovely, idea. Are
18 you going to turn it towards the -- no. I think the other way.
19 I don't think the jury -- the jury has plenty of big screens in
20 front of it now.

21 These screens are new, ladies and gentlemen, and they are
22 -- getting used to them. They're large, I know, for the people
23 in front and somewhat bright. But --

24 **MR. HASIB:** Sorry. Which way did you want the --

25 **THE COURT:** I was thinking the other way, but it

REINKE - DIRECT / HASIB

1 doesn't matter. If everybody's happy let's just proceed.

2 CHRIS REINKE,

3 called as a witness for the Plaintiff, having been previously
4 duly sworn, testified further as follows:

5 DIRECT EXAMINATION (Resumed)

6 **BY MR. HASIB:**

7 Q. Special Agent Reinke, before we go back to the call that
8 we were listening to yesterday, you were testifying about some
9 text messages. Do you recall that?

10 A. I do.

11 Q. I'm placing before you what's been marked as Government
12 Exhibit 144. And do you recognize that exhibit?

13 A. I do.

14 Q. What is it?

15 A. It is a printout of the text messages from Mr. Shafi's
16 phone that he received or sent, and it was produced by the FBI
17 Cellebrite machine.

18 Q. And does it display all the text messages that the FBI
19 recovered in this case or just a subset of them?

20 A. No, it does not. Just contains the text messages that
21 I've thus far referenced in my timeline summary and future ones
22 that I will reference later this morning.

23 **MR. HASIB:** Your Honor, this is marked as Government
24 Exhibit 144. I would offer it into evidence mindful of the
25 discussion we just had, and ask to display it for a moment

REINKE - DIRECT / HASIB

1 before the jury.

2 **THE COURT:** All right. So I'll allow you to display
3 it just to show the jury what it is. I'm not admitting it at
4 the moment, but I'm going to rule on it at a later time.

5 **MR. HASIB:** If I may have the Elmo for a moment?

6 **BY MR. HASIB:**

7 **Q.** Are those some of the text messages that you testified
8 about yesterday?

9 **A.** They are.

10 **Q.** Okay. And the remaining pages in Government Exhibit 144,
11 do those depict other text messages that you testified about
12 yesterday?

13 **A.** They do.

14 **Q.** Okay.

15 **MR. HASIB:** Thank you, Your Honor.

16 Ma'am clerk, if we could go back to the government's
17 computer, please.

18 **BY MR. HASIB:**

19 **Q.** Special Agent Reinke, yesterday we were playing a call
20 that occurred on June 5, 2015. Do you recall what time that
21 call took place?

22 **A.** Approximately 2:30 in the morning Pacific Standard Time.
23 So here in San Francisco or Fremont.

24 **Q.** And before we go back into the call, there were some
25 Arabic terms that were used during the portion that we heard

REINKE - DIRECT / HASIB

1 yesterday and I'd like to ask you about some of those. You've
2 reviewed Ms. Butros' chart, Government Exhibit 33?

3 **A.** I have.

4 **Q.** What is the translation for the word *da'wah*?

5 **A.** So *da'wah* is preaching.

6 **Q.** And how about the translation for the word *bay'ah*.

7 **A.** *Bay'ah* is pledge of allegiance. And I can't read after
8 the slash that Ms. Butros put on there from this distance,
9 but --

10 **Q.** But you see it says pledge of allegiance -- let me bring
11 it closer to you.

12 **A.** My eyesight is degrading. Pledge of allegiance and pledge
13 of loyalty or fealty.

14 **Q.** How about *kuffar*?

15 **A.** *Kuffar* is nonbeliever.

16 **Q.** And lastly *khilafah*.

17 **A.** *Khilafah* is caliphate.

18 **Q.** Okay. Ms. Yee, if you could play the recording from where
19 we left off yesterday.

20 (Audio was played but not reported.)

21 **MR. HASIB:** Ms. Yee, please pull up the next clip,
22 006-003. This is about a three-minute clip and it's a
23 continuation.

24 (Audio was played but not reported.)

25 **Q.** Special Agent Reinke, before we go on to the next clip,

REINKE - DIRECT / HASIB

1 there was a reference there to someone named Baghdadi. Do you
2 know who the leader of ISIS is?

3 **A.** Abu Bakr al-Baghdadi.

4 **Q.** Ms. Yee, if you could pull up Government Exhibit 6, clip
5 003. No. I'm sorry. Clip 004.

6 And Ms. Lamparelli, if you could pull up the corresponding
7 transcript, 6-004. And this is transcript -- Government
8 Exhibit 22 is the transcript.

9 (Audio was played but not reported.)

10 **MR. HASIB:** And moving to the next clip which is the
11 same page.

12 (Audio was played but not reported.)

13 **MR. HASIB:** Ms. Lamparelli, if you could go to the
14 next bookmark on the transcript on Government Exhibit 22. This
15 is just a few seconds later at 32 minutes, 41 seconds. This is
16 a clip about two minutes long.

17 Go ahead and play that clip.

18 (Audio was played but not reported.)

19 **MR. HASIB:** Ms. Yee, if you could play clip 006-007
20 from 41 minutes --

21 (Audio was played but not reported.)

22 **BY MR. HASIB:**

23 **Q.** Special Agent Reinke, showing you government's
24 translation, Government Exhibit 33, reference there just now to
25 *juhannam*. What is *juhannam*?

REINKE - DIRECT / HASIB

1 A. *Juhannam* is hell.

2 Q. And a reference to *shaitan*. What is *shaitan*?

3 A. *Shaitan* is Satan.

4 (Audio was played but not reported.)

5 **MR. HASIB:** Ms. Yee, if you could pull up clip
6 006-008.

7 Ms. Lamparelli, if you could pull up the corresponding
8 transcript at 51 minutes, 26 seconds.

9 (Audio was played but not reported.)

10 BY MR. HASIB:

11 Q. Special Agent Reinke, there was a reference in that clip
12 that we just heard to the Arabic word *Sham*. S-H-A-M. In the
13 transcript let me bring --

14 | A. You're fine. *Sham* is Syria.

15 Q. *Sham* is Syria.

16 **MR. HASIB:** Ms. Lamparelli, if you could pull up the
17 last clip from hour and two minutes, 20 seconds. And, Ms. Yee,
18 if you could play clip 006-009 in a moment. Just a second.
19 It's a long clip. It's about a 20-minute clip.

20 (Audio was played but not reported.)

21 BY MR. HASIB:

22 Q. Special Agent Reinke, there was a word there mentioned,
23 Tawfig. Is *tawfig* listed on Government Exhibit 33, Arabic
24 translations? What does that stand for?

25 A. Tawfiq is success.

REINKE - DIRECT / HASIB

1 (Audio was played but not reported.)

2 Q. Special Agent Reinke, do you have your timeline in front
3 of you, Government Exhibit 118?

4 A. I do.

5 Q. We left off yesterday looking at this timeline on June 5,
6 2015. That last entry for that date, June 5, 2015. What is
7 that entry on your timeline?

8 A. That was a reflection of the phone call we just listened
9 to where --

10 Q. That was the call that we just heard?

11 A. Correct.

12 Q. Let me ask you to describe what's the next entry in your
13 timeline on June 8, 2015.

14 A. So on June 8, 2015, Mr. Shafi calls Mr. Karim to discuss a
15 dream that Mr. Shafi recently had. Some of the quotes from
16 that call are: We both got married and then we were just like,
17 okay, how are we going to leave, or whatever? And then?

18 Mr. Karim says. Mr. Shafi replies: And then we were just
19 like -- we'll just take them and put them in the city. That's
20 all -- they all put them in the city. And I was like: Okay.

21 Mr. Karim responded: In what city? Mr. Shafi said: In *Halab*.

22 Q. Does the Arabic linguist, Ms. Butros, testify that *Halab*
23 is the Arabic word for Aleppo?

24 A. She did.

25 Q. Is that Exhibit 7 that was played in court a few days ago?

REINKE - DIRECT / HASIB

1 A. It is.

2 Q. Special Agent Reinke, the next item on your timeline
3 June 10, 2015, what is that?

4 A. On June 10, Mr. Shafi and Mr. Karim had a text exchange.

5 Q. Before you go any further, is that text exchange reflected
6 on Government Exhibit 144 that you reviewed earlier?

7 A. It is.

8 Q. What happened in that text exchange, if you recall? Or if
9 you see it on your timeline.

10 A. It's on my timeline. And Mr. Shafi texted Mr. Karim:
11 Have you found room in your heart for contentment under the
12 enemies of Allah? Mr. Karim responds: No, bro. Mr. Shafi
13 responds: What do you want to do, then? Or have you silenced
14 your pleading heart? Mr. Karim said: Just make us feel like
15 feces.

16 Q. And Special Agent Reinke, if you could describe the next
17 few items on your timeline from June 11 through June 15, 2015?

18 A. On June 11, 2015, reflexatron@gmail.com conducted a
19 YouTube search in Arabic for: Die a martyr if you will. On
20 June 14, 2015, reflexatron@gmail.com viewed an image from a
21 website entitled the Legal Foundations of the Islamic State.
22 Reflexatron@gmail.com reviewed that three times.

23 On June 14, 2015, reflexatron@gmail.com conducted Google
24 searches in Arabic for the Islamic State, four times. And the
25 Sign of Monotheism, four times. And then on June 15, 2015,

REINKE - DIRECT / HASIB

1 reflexatron conducted a YouTube search in Arabic for *Tal Abyad*
2 five times.

3 Q. Have you done any research on what *Tal Abyad* is?

4 A. Yes, I have.

5 Q. What is *Tal Abyad*?

6 A. *Tal Abyad* is a city, it's a border town.

7 MR. FAKHOURY: Basis of knowledge.

8 BY MR. HASIB:

9 Q. How did you research what *Tal Abyad* is?

10 A. I conducted a Google search and looked at Google Maps.

11 Q. Based on that search that you did, what is *Tal Abyad*?

12 A. *Tal Abyad* is a border town that's bisected by the
13 Turkish-Syrian border. So half the town is in Turkey and half
14 of town is in Syria. It's located halfway between roughly Urfa
15 and Gaziantep in north central Syria or southeast Turkey.

16 Q. Special Agent Reinke, the next item in your timeline
17 June 16, 2015. Is there another call that occurs on that day?

18 A. There is.

19 MR. HASIB: Miss Lamparelli, if you could pull up
20 government transcript 24 and put that up on the screen.

21 And, Ms. Yee, if you could play Government Exhibit 8 in
22 its entirety.

23 This is about a three and-a-half minute call, Your Honor.

24 (Audio was played but not reported.)

25 Q. Special Agent Reinke, turning back to your timeline,

1 Government Exhibit 118, is there an entry for June 18, 2015?

2 **A.** There is. There's a phone call between Mr. Shafi and
3 Mr. Karim during which Mr. Shafi expresses jealousy at news of
4 an acquaintance's cousin who was killed fighting in Syria.

5 **Q.** Was that Government Exhibit 9 that was played in court
6 earlier this week?

7 **A.** Yes.

8 **Q.** Special Agent Reinke, could you just walk the jury through
9 the next couple of entries on your timeline for June 20, 2015?

10 **MR. FAKHOURY:** Your Honor? I'm sorry to interrupt.

11 But before we do this, could we have a very brief sidebar?

12 **THE COURT:** Sure.

13 (The following proceedings were heard at the sidebar:)

14 **MR. FAKHOURY:** I am sorry that I did not catch this
15 earlier. But on the entry for June 20, 2015, it has a
16 reference to *pembantaian*, P-E-M-B-A-N-T-A-I-A-N, which
17 translates to massacre. This is not an Arabic word. I believe
18 this is a Indonesian or Malaysian word, so I don't know the
19 basis where this translation is coming from. I'm very sorry I
20 didn't catch this earlier.

21 **MR. HASIB:** I believe Special Agent Reinke will
22 testify that he -- well, put it there (indicating), he did some
23 research on the internet to find out what *pembantaian* would
24 translate.

25 **MR. FAKHOURY:** Is this Wikipedia article?

SIDE BAR

1 **MR. HASIB:** Yes. Maybe others.

2 **MR. FAKHOURY:** We would object on foundation. I

3 apologize I didn't catch this earlier.

4 **THE COURT:** Wikipedia would not be a source that I
5 would use for translating a word that nobody knows.

6 **MR. HASIB:** Okay. How do you suggest -- should I --

7 **THE COURT:** Skip over that one.

8 **MR. HASIB:** I'm happy to --

9 **MR. FAKHOURY:** I appreciate the government will skip
10 over it, but the issue is obviously the jury has the timeline.
11 Again, I wish I had caught this earlier.

12 I don't know. Maybe we can just give them a limiting
13 instruction to disregard that entry or that translation just so
14 they understand why we're not having questions about it.

15 **MR. MATTHEWS:** Possibly, since the Court feels that
16 Wikipedia not an appropriate source from which a translation
17 should be derived you could actually tell them that. I think
18 that would make the point. What do you think?

19 **MR. FAKHOURY:** That's fine.

20 **THE COURT:** Yeah. I'll do that.

21 **MR. HASIB:** Your Honor, I'm sorry. The timeline
22 suggests that it was Mr. Shafi that visited the Wikipedia site.
23 I'm actually not sure how Special Agent Reinke came up with
24 that translation. That probably makes it even more worthy of a
25 limiting instruction.

REINKE - DIRECT / HASIB

1 **THE COURT:** Yeah, I will do that. I will give a
2 limiting instruction that we can -- that the translation does
3 not -- we don't have a translation for that term.

4 **MR. HASIB:** Okay.

5 **MR. FAKHOURY:** Thank you.

6 (The following proceedings were heard in open court:)

7 **BY MR. HASIB:**

8 **Q.** Special Agent Reinke, on page 11, could you just explain
9 to the jury what those two entries are on your timeline for
10 June 20, 2015?

11 **A.** Yes. So on June 20, 2015, reflexatron@gmail.com conducts
12 YouTube searches for Burma, nine times; and also conducts
13 Google searches in Arabic, and the search term was: They fight
14 *jihad* for God's cause with their possessions and their lives.
15 And that was done twice.

16 **Q.** And was there a subsequent text message conversation on
17 June 20, 2015, on your timeline?

18 **A.** There is.

19 **Q.** And what -- what happened in that text message
20 conversation if you have it on your timeline or if you recall
21 from your memory?

22 **A.** So on my timeline on June 20, 2015, there's a text
23 exchange between Mr. Shafi and Mr. Karim's cell phones.
24 Mr. Shafi says: Dude, Armin is still in jail. What the hell
25 are we doing? Mr. Karim responds: What can we do? Mr. Shafi

REINKE - DIRECT / HASIB

1 says -- texts -- IDK, but this isn't right. How can I enjoy
2 anything while he's locked up in a cage? Mr. Karim texts: I
3 don't enjoy. And then texts: Anything. Mr. Shafi responds:
4 Me, too. Dude, he's in a freaking cage. We have to do
5 something. Honestly, sometimes feel like if there's really
6 nothing I can do, I just rather be with him in the cage. At
7 least he won't be alone. Mr. Karim texts back: You think they
8 would put you in the same cage? LOL. Mr. Shafi texts back:
9 Even if it's not the same cage, at least I'll be going through
10 what he's going through instead of just eating my fancy meals
11 and sleeping in my fancy house while he's in a cage. If
12 there's nothing I can do, then that's what I should do. IA.
13 That would make me feel better dying like that instead of like
14 this. Mr. Karim responds with a text: Burma. Mr. Shafi
15 responds with a text: That works, too.

16 **MR. HASIB:** Your Honor, I'm going to then skip over
17 the next couple of items unless Your Honor has --

18 **THE COURT:** All right. And ladies and gentlemen,
19 because you have the document in front of you, there is a
20 non-Arabic word that's translated there, and there's no
21 translation for that term. We don't have that. That's not --
22 that's not in evidence at all so you should disregard that.

23 Then go ahead.

24 **BY MR. HASIB:**

25 **Q.** Special Agent Reinke, was there a call on June 23, 2015?

REINKE - DIRECT / HASIB

1 **A.** There was. There's a phone call from Mr. Shafi with
2 Mr. Karim where Mr. Shafi discusses a daydream where -- that he
3 took over Egypt and killed the whole army: I like went and
4 destroyed the freaking hell out of Israel.

5 **Q.** Let me stop you there for a second. Is that Government
6 Exhibit 10, the audio, and the transcript Government Exhibit
7 26?

8 **A.** It is.

9 **MR. HASIB:** Ms. Lamparelli, if you could pull up
10 Government Exhibit 10 from the first clip, which is at 2
11 minutes, 40 seconds.

12 And, Ms. Yee, if you could play Government Exhibit 010,
13 the first clip, 001.

14 (Audio was played but not reported.)

15 **MR. HASIB:** And Ms. Lamparelli, if you could turn to
16 the second clip in that exhibit.

17 And, Ms. Yee, if you could pull up Government Exhibit
18 010-002, which is from about 7 minutes, 10 seconds, to 8
19 minutes, 44 seconds.

20 (Audio was played but not reported.)

21 **MR. HASIB:** Ms. Lamparelli, I'm going to skip one
22 ahead. Could you pull up the clip for 28 seconds -- sorry --
23 28 minutes, 12 seconds.

24 And, Ms. Yee, if you could go to clip 010-004 at 28
25 minutes, 12 seconds.

(Audio was played but not reported.)

MR. HASIB: And Ms. Lamparelli, if you could go to --
uld be clip -- the fifth clip at 31 minutes, 08

And, Ms. Yee, if you could play clip 010-005 from 31 minutes and 8 seconds.

(Audio was played but not reported.)

MR. HASIB: And if we could go to the last clip, Ms. Lamparelli, at 37 minutes. And this is about a one-minute clip.

Ms. Yee, if you could play from 37 minutes, Government
Exhibit 010-006.

(Audio was played but not reported.)

BY MR. HASIB:

Q. Special Agent Reinke, turning back to your timeline to page 13. Is there another call on June 23, 2015?

A. There is. There's a --

MR. HASIB: Ms. Lamparelli, if you could put up Government Exhibit 27.

And, Ms. Yee, if you could play Government Exhibit 11 is the audio from, let's see, 11-001. It's one minute, 50 seconds.

(Audio was played but not reported.)

MR. HASIB: And Ms. Lamparelli, if you could go to the second clip in that transcript. And Ms. Yee, if you could pull

1 up the second clip, 11-002.

2 Your Honor, I note it's about 9:30. If I play this clip,
3 we're pretty close.

4 **THE COURT:** All right.

5 (Audio was played but not reported.)

6 **MR. HASIB:** Your Honor, I have one more call that's
7 three and-a-half minutes, and a handful of questions for
8 Special Agent Reinke. I leave it to the Court's discretion.

9 **THE COURT:** I think we'll take a break at this point.
10 So ladies and gentlemen, we'll take our first break in the
11 morning and come back at quarter of 10. Please remember the
12 admonitions.

13 (Recess taken at 9:32 a.m.)

14 (Proceedings resumed at 9:45 a.m.)

15 **THE COURT:** All right. Please be seated, everybody.
16 Go ahead.

17 **MR. HASIB:** Thank you, Your Honor.

18 **BY MR. HASIB:**

19 **Q.** Special Agent Reinke, when we left off we'd just listened
20 to a call on June 23, 2015, on your timeline. Can you describe
21 for the jury the next couple of entries on June 24 and 25 on
22 your timeline?

23 **A.** Sure. On June 24, 2015, reflexatron@gmail.com conducted
24 YouTube searches in Arabic for the Islamic State, five times.
25 The next day on June 25, 2015, reflexatron@gmail.com conducted

REINKE - DIRECT / HASIB

1 YouTube searches in Arabic for the Islamic State anthem,
2 homeland, five times. And the Islamic State anthem.

3 Q. Now on June 26, 2016 (sic), was there another telephone
4 call?

5 A. There was.

6 **MR. HASIB:** Ms. Yee, if you could -- actually,
7 Ms. Lamparelli, if you could put Government Exhibit 28 on the
8 screen.

9 And, Ms. Yee, if you could play Government Exhibit 12 from
10 the beginning until about 3 minutes, 30 seconds.

11 (Audio was played but not reported.)

12 **BY MR. HASIB:**

13 Q. Special Agent Reinke, there was an Arabic word there
14 mentioned, the word *nikkah*.

15 A. *Nikkah* means wedding.

16 Q. Did you say "wedding"?

17 A. Yes. Wedding.

18 Q. Could you just briefly describe the last items in your
19 timeline from June 29?

20 A. Sure. On June 29 Mr. Shafi purchases a Turkish Airlines
21 plane ticket to Istanbul, Turkey, using a Bank of America card.
22 On June 30 he attempts to fly out of SFO to Istanbul, is
23 stopped, interviewed by FBI agents in the SFO terminal. On
24 June 30, 2015, Mr. Shafi calls his brother, Mr. Izze Shafi,
25 regarding being stopped at the airport. Also on June 30, 2015,

REINKE - DIRECT / HASIB

1 Mr. Shafi calls Mr. Niazi about asking *Allah* to find his
2 passport and trying to fly out of SFO. On July 1, 2015, Mr.
3 Shafi calls Mr. Karim to tell him he tried to go to Turkey and
4 was stopped by the FBI. During the call, Mr. Shafi says: I
5 was wrong. I was wrong to go.

6 **Q.** Let me just stop you there for a second. Are those the
7 calls that were played yesterday with Special Agent Matt Sung?

8 **A.** Correct.

9 **Q.** Were those the calls -- two of them occurred on the BART
10 train?

11 **A.** Correct.

12 **Q.** And lastly, Ms. Yee, if you could pull up Government
13 Exhibit 129-004, which is in evidence. And if you could zoom
14 in on the top half of that.

15 Special Agent Reinke, what is that exhibit?

16 **A.** These are records from Turkish Airlines.

17 **Q.** And can you just walk the jury through what those records
18 show?

19 **A.** Sure. So on the top, the third row down, it says: Pax
20 name, Shafi, Adam. The ticket was issued on June 29, 2015.

21 **Q.** How do you know that?

22 **A.** It says issued on 20150629.

23 **Q.** Does it say where the ticket is to?

24 **A.** It does.

25 **Q.** Where is that?

REINKE - CROSS / FAKHOURY

1 **A.** On the bottom, the second row from the bottom, it says:
2 20150630, so June 30, 2015; SFO, which is San Francisco
3 International Airport; and IST which is the airport code for
4 the Istanbul Atatürk Airport.

5 **MR. HASIB:** No further questions for Special Agent
6 Reinke.

7 **THE COURT:** Thank you. Mr. Fakhoury.

8 **MR. FAKHOURY:** Thank you. One second, Your Honor.

9 And if I could ask Ma'am Clerk if we could have the
10 computer turned on.

11 **THE CLERK:** Yes.

12 CROSS-EXAMINATION

13 **BY MR. FAKHOURY:**

14 **Q.** All right. Good morning, Agent Reinke.

15 **A.** Good morning, Mr. Fakhoury.

16 **Q.** Am I saying your last name right?

17 **A.** Close enough.

18 **Q.** Close enough? My last name is Fakhoury, so you can
19 imagine the trouble I get.

20 **A.** I think we've had the same issues in our lives.

21 **Q.** So you testified you're the FBI case agent on this case,
22 correct?

23 **A.** Correct.

24 **Q.** And you've been the case agent since May of 2017.

25 **A.** Approximately May, June, 2017, correct.

REINKE - CROSS / FAKHOURY

1 **Q.** Now, by being the case agent, that means you're the lead
2 agent on the case.

3 **A.** That's correct.

4 **Q.** You work very closely with the prosecutors in the case.

5 **A.** That's correct.

6 **Q.** You've been here all -- during the entire trial, right?

7 **A.** Yes.

8 **Q.** As a case agent, it's your responsibility to know all of
9 the details of the evidence and the investigation, correct?

10 **A.** To the best of my ability, yes.

11 **Q.** And as part of your duties and responsibilities as a case
12 agent is to review all the records and evidence that have been
13 collected, right?

14 **A.** Yes.

15 **Q.** And you've done that in this case, correct?

16 **A.** I've tried. There's quite a bit. But --

17 **Q.** I'm sure there is. We've seen bank records and credit
18 card records, right?

19 **A.** Correct.

20 **Q.** Google records.

21 **A.** Correct.

22 **Q.** There's been electronic devices.

23 **A.** Yes.

24 **Q.** Okay. And you're not the first case agent on this
25 specific case, correct?

REINKE - CROSS / FAKHOURY

1 **A.** That's correct.

2 **Q.** There were other case agents that were assigned as the
3 lead case agent on this investigation before you took over in
4 May 2017.

5 **A.** There was one prior case agent, yes.

6 **Q.** Okay. Who was that?

7 **A.** That was Special Agent Dale Ryan Sutter.

8 **Q.** Okay. And when the case shifted from Agent Sutter to you,
9 obviously you reviewed all of the work that had been done up
10 until the time you had taken over the responsibilities as a
11 case agent, correct?

12 **A.** I did. As I stated, to the best of my ability.

13 **Q.** Okay. Now, you testified at length about this timeline.
14 And what I want to do is spend some time going through this
15 timeline, as well, and asking some follow-up questions.

16 **A.** Sure.

17 **Q.** Now, the first thing I wanted to ask was you testified
18 that this timeline was designed to make things easier. Right?

19 **A.** Correct.

20 **Q.** And these are items of interest for the investigation,
21 correct?

22 **A.** Correct.

23 **Q.** Obviously, it doesn't tell the whole story of what's in
24 the volume of the Google search records, for example.

25 **A.** That's correct.

REINKE - CROSS / FAKHOURY

1 **Q.** Right? That's this behemoth of an exhibit that you have
2 in your binder (indicating)?

3 **A.** It's included in this behemoth of an exhibit.

4 **Q.** So this is all the Google search queries you've been
5 testifying about came -- you've turned them into this kind of
6 easy-to-handle spreadsheet. Right?

7 **A.** Again, I tried, yes.

8 **Q.** And this Google search record has over 9,000 search
9 queries between 2014 and 2015, correct?

10 **A.** I don't know the exact number. I know the exhibit we cut
11 it off on January 1, 2014. There were actually more records
12 that went further back, and that might be the number you're
13 referencing. So post January 1, 2014, I couldn't give you the
14 number.

15 **Q.** I think it's important that we get it down. So why don't
16 you take -- go ahead and open that binder and take a look at
17 Exhibit 137, page 236.

18 And, Ms. Cruz, could you publish that, please? Maybe we
19 could zoom in on the last couple lines.

20 So that shows that in this exhibit (indicating), the
21 Google search records from January 1, 2014, to July 3, 2015,
22 there's 9,439 search queries.

23 **A.** It shows there's 9,439 Excel rows. So if you take off the
24 first -- I think there's six rows on the top on the first page
25 of it, that would give you 9,433.

REINKE - CROSS / FAKHOURY

1 **Q.** Okay. That works for me.

2 **A.** Close enough.

3 **Q.** Same thing with the YouTube search records. That's
4 Exhibit 138, right?

5 **A.** Correct.

6 **Q.** And Ms. Cruz, could you pull up Exhibit 138, page 35?
7 Basically, the same question, right?

8 **A.** Sure.

9 **Q.** About 1,480, give or take a couple items for -- as -- just
10 like the search records, right?

11 **A.** 1,472, I think.

12 **Q.** Sure. Okay. So obviously, this timeline doesn't have
13 1,400 YouTube search queries on it.

14 **A.** No, it does not.

15 **Q.** Now the timeline indicates a couple times when Mr. Shafi
16 spoke to law enforcement. For example, the timeline indicates
17 that on -- let me get the specific date -- that on August 20,
18 2014, Mr. Shafi was interviewed by Customs and Border
19 Protection at SFO, the airport, right? That's on page 4 of the
20 timeline.

21 **A.** Yes.

22 **Q.** Okay. And if you jump to page 13 of the timeline, it says
23 on June 30, 2015, Mr. Shafi was interviewed by FBI agents in
24 SFO, right?

25 **A.** It does, yes.

REINKE - CROSS / FAKHOURY

1 **Q.** Okay. Now, you testified that Agent Sutter was the case
2 agent before you took over the investigation, right?

3 **A.** Yes.

4 **Q.** And you're aware that on September 4, 2014, Agent Sutter
5 interviewed Mr. Shafi as well, correct?

6 **A.** I'm not sure about the date, but I recall an interview
7 occurring, yes.

8 **Q.** Okay. You said you don't recall the date. You don't
9 recall the specific date being September 4?

10 **A.** Correct.

11 **Q.** But you would agree it was sometime in September of 2014.

12 **A.** That's correct.

13 **Q.** Okay. Where on the timeline is that interview indicated?

14 **A.** It's not.

15 **Q.** Okay. Now, you're aware that after Mr. Shafi returned
16 from Istanbul in 2014, the FBI had placed him under physical
17 surveillance, correct?

18 **A.** I'm not sure exactly when it was right after the 2014
19 trip, but, yes, eventually there was a physical surveillance
20 that was initiated.

21 **Q.** And physical surveillance in this context means there are
22 agents sort of monitoring him and watching where he's going,
23 right?

24 **A.** It can be agents or surveillance specialists.

25 **Q.** Okay. Now these surveillance specialists, they're not

REINKE - CROSS / FAKHOURY

1 parked in a van that says "FBI" in big letters on the outside,
2 right?

3 **A.** No, they're not.

4 **Q.** They're intended to be covert, I guess is the way you
5 could call it.

6 **A.** Sure.

7 **Q.** And you're aware that your predecessor, Agent Sutter, that
8 he himself conducted spot checks on Mr. Shafi during the fall
9 and spring -- the fall of 2014 and the spring of 2015. Right?

10 **A.** That sounds accurate, yes.

11 **Q.** Here's a specific example. On November 6, 2014, you're
12 aware that Agent Sutter conducted a spot check of Mr. Shafi.

13 **A.** Again, to the exact date, I'm not sure. But that sounds
14 about around that time, yes.

15 **Q.** Okay. And you're aware that Agent Sutter observed
16 Mr. Shafi's car parked at 465 Fairchild Drive in Mountain View.
17 Are you aware of that?

18 **A.** That sounds familiar.

19 **Q.** You're aware that that was a Coding Dojo.

20 **A.** Correct.

21 **Q.** And a Coding Dojo is, basically, like a boot camp for
22 people who want to learn computer programming, right?

23 **A.** That's my understanding.

24 **Q.** You're aware that there was another spot check of
25 Mr. Shafi done on November 25, 2014, right?

REINKE - CROSS / FAKHOURY

1 **A.** That sounds approximate around the date, yes.

2 **Q.** And on that day Mr. Shafi's car was parked outside his
3 house in Fremont, right?

4 **A.** It could be for that surveillance, yes.

5 **Q.** Okay. And to not go through 100 of these -- I mean, there
6 were several other times when the FBI conducted physical
7 surveillance on Mr. Shafi, right?

8 **A.** I wouldn't say 100, but there were other surveillance
9 operations that were conducted, correct.

10 **Q.** Okay. So there was surveillance operations conducted on
11 December 6, 2014, for example, right?

12 **A.** Yes.

13 **Q.** December 7, 2014.

14 **A.** Not sure about 7th, but again that sounds correct.

15 **Q.** December 19, 2014.

16 **A.** Approximately.

17 **Q.** January 2, 2015.

18 **A.** Again, approximately, yes, there might have been one.

19 **Q.** March 1, 2015.

20 **A.** Potentially.

21 **Q.** June 7, 2015.

22 **A.** Yes.

23 **Q.** June 8 -- June 18, 2015.

24 **A.** The date sounds correct.

25 **Q.** And June 27, 2015.

REINKE - CROSS / FAKHOURY

1 **A.** Yes.

2 **Q.** Okay. Were any of those dates put on this timeline?

3 **A.** No, they were not.

4 **Q.** Okay. We've heard several phone calls, recordings of
5 phone calls, that Mr. Shafi made. We've had them played in
6 court throughout the trial. Obviously, you're familiar with
7 those phone calls, right?

8 **A.** Correct.

9 **Q.** You're familiar with the way in which the FBI obtained
10 these recordings, right?

11 **A.** I am.

12 **Q.** They obtained a court order that authorized the collection
13 of these recordings, right?

14 **A.** That's correct.

15 **Q.** Okay. And so far in trial we've heard about -- or, excuse
16 me. So far there have been 15 specific phone calls that have
17 been admitted into evidence, correct?

18 **A.** Correct.

19 **Q.** Now those 15 phone calls aren't the entire universe of the
20 phone calls that Mr. Shafi made, right? from 2014 to 2015.
21 Let's bind it that way.

22 **A.** No. Much like the Google and YouTube searches, we chose
23 to play the ones that were of investigative interest.

24 **Q.** Okay. Now, you're aware that the FBI -- or, put it this
25 way. You're aware that Mr. Shafi's phone calls began to be

REINKE - CROSS / FAKHOURY

1 recorded in December of 2014, correct?

2 **A.** No.

3 **Q.** Okay. When did the recordings start?

4 **A.** The recordings that were authorized for Mr. Shafi began
5 around the 1st of June, 2015.

6 **Q.** The 1st of June, 2015?

7 **A.** It may have been May 31 or May 30.

8 **MR. HASIB:** Your Honor, if this is going to go any
9 further, I'm going to object for the reasons discussed in the
10 motions *in limine*.

11 **MR. FAKHOURY:** It has nothing to do with the issue in
12 the motions *in limine*. We could take a sidebar.

13 **THE COURT:** Let's go to the sidebar for a second.

14
15 (This sidebar was placed under seal by Order of the Court and
is not a part of this transcript. Page 513, Line 14 through
Page 515, Line 21)

16

17

18

19

20

21

22

23

24

25

(Sidebar under seal)

1
2
3
4 (Sidebar under seal)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22 (The following proceedings were heard in open court:)
23 **THE COURT:** Mr. Hasib, the parties have a stipulation?
24 **MR. HASIB:** We do, Your Honor. The parties agree to
25 stipulate that there were at least 450 calls relating to

REINKE - CROSS / FAKHOURY

1 Mr. Shafi that were intercepted from the period of December of
2 2014 to July of 2015.

3 **MR. FAKHOURY:** Yes.

4 **THE COURT:** All right. And ladies and gentlemen, as I
5 mentioned earlier, that stipulation requires to further
6 evidence. You can accept that.

7 **MR. FAKHOURY:** Give me one second. Let me just get
8 sorted out here.

9 **BY MR. FAKHOURY:**

10 **Q.** Okay. Sorry for the delay there.

11 Now, you testified that as a case agent you tried to
12 review as much of the material as you possibly could, right?

13 **A.** Correct.

14 **Q.** And that includes the forensic images made of seized
15 electronic devices in this case, right?

16 **A.** That's right.

17 **Q.** Okay. I think it was the gentleman whose name I'm going
18 to completely butcher.

19 **A.** You can say his first name.

20 **Q.** Mr. Rajkumar, the computer scientist. He testified kind
21 of the way the FBI does things -- and you can correct me if I'm
22 wrong -- that the way that the FBI does things is when they
23 take the forensic image they place it within AD lab which
24 allows case agents, and really only case agents, to review the
25 forensic image. Correct?

REINKE - CROSS / FAKHOURY

1 **A.** Correct.

2 **Q.** Go ahead. Did you --

3 **A.** No, that's essentially correct, yes. The case agent may
4 bring someone else in that may have more experience to help
5 review said evidence on AD labs -- or, "AD labs" -- but for the
6 most part it's up to the case agent's discretion on who gets to
7 see that and who's able to see that.

8 **Q.** Okay. And part of your training is to receive -- or, to
9 learn how to review that forensic image, correct?

10 **A.** That's correct.

11 **Q.** Now, in this case, there was several electronic devices
12 seized, right?

13 **A.** That's correct.

14 **Q.** And imaged, correct?

15 **A.** Yes.

16 **Q.** So we've heard a lot about a Samsung Galaxy cell phone
17 belonging to Mr. Shafi, right?

18 **A.** Yes.

19 **Q.** And we've heard -- Agent Posadas testified about an LG
20 cell phone that he imaged relating -- belonging to Saleem
21 Karim, correct?

22 **A.** Correct.

23 **Q.** Then a MacBook -- an Apple MacBook Pro was also imaged
24 that belonged to Mr. Shafi, right?

25 **A.** Yes.

REINKE - CROSS / FAKHOURY

1 **Q.** And you've reviewed the items on those forensic images,
2 right?

3 **A.** I have.

4 **Q.** And you can generate reports based on your review of those
5 images, right?

6 **A.** Yes.

7 **Q.** And you've done that in this case, right?

8 **A.** I have.

9 **Q.** You testified yesterday that Mr. Shafi, while he was in
10 Istanbul, had visited Hagia Sophia and the Blue Mosque. Do you
11 remember that?

12 **A.** I do.

13 **Q.** Those are very popular tourist destinations in Istanbul,
14 right?

15 **A.** They are.

16 **Q.** And your testimony was that you determined that that took
17 place because there were photos on Mr. Shafi's cell phone of
18 those locations, right?

19 **A.** Yes.

20 **Q.** And they had metadata that showed that the photo was
21 taken -- I think it was August 17, 2014 -- while Mr. Shafi was
22 in Istanbul, correct?

23 **A.** That's what the data said.

24 **Q.** So that's an example of evidence that you were able to
25 review from the forensic image of the Samsung Galaxy cell

REINKE - CROSS / FAKHOURY

1 phone, right?

2 **A.** Yes. I believe those same photos are on the MacBook Pro.

3 **Q.** So Mr. Shafi's MacBook, right?

4 **A.** Correct.

5 **Q.** Where on -- strike that. Excuse me.

6 Now, to recap some of the testimony we heard yesterday,
7 when a forensic image is taken of a phone or a computer, the
8 image captures everything that's on the phone or the computer
9 at the time it's imaged, right?

10 **A.** Correct. To my knowledge.

11 **Q.** Okay. And so with a cell phone, for example, like the
12 Samsung Galaxy phone, you have insight into how many text
13 messages are on the phone, right?

14 **A.** How many were on the phone when it was seized.

15 **Q.** Right. Exactly. So you can see how many text messages
16 were on the phone at the time it was seized, right?

17 **A.** We can see the text messages that were on there when it
18 was seized; not any other deleted texts or anything like that.

19 **Q.** You can see the images on the phone at the time it was
20 seized, correct?

21 **A.** Correct.

22 **Q.** The videos that were on the phone at the time it was
23 seized.

24 **A.** If there are any, yes.

25 **Q.** Sure. And that's true for all of the categories of

REINKE - CROSS / FAKHOURY

1 information, right?

2 **A.** Exactly.

3 **Q.** You're limited to only what's on the device at that time.

4 **A.** At the time it was seized.

5 **Q.** Correct. And it's essentially the same thing with the
6 MacBook, right?

7 **A.** Correct.

8 **Q.** Okay. Now, you testified -- and you reviewed the forensic
9 images that were taken in this case, right?

10 **A.** I did.

11 **Q.** Okay. So you reviewed the forensic image of Mr. Shafi's
12 cell phone, right?

13 **A.** I did.

14 **Q.** So you know that at the time the cell phone was
15 extracted -- meaning after his arrest on July 3 -- there were
16 3,562 SMS or text messages on the phone. Correct?

17 **A.** That number sounds about what it was.

18 **Q.** Now, obviously, this timeline doesn't have 3,500 text
19 messages on it, right?

20 **A.** Correct.

21 **Q.** Now, the image of Mr. Shafi's Samsung Galaxy cell phone
22 also this 1,517 images or pictures on it, right?

23 **A.** Again, that number sounds about accurate.

24 **Q.** And had 656 audio files. Does that sound right?

25 **A.** The Samsung Galaxy S4?

REINKE - CROSS / FAKHOURY

1 **Q.** Correct.

2 **A.** That number doesn't sound accurate.

3 **Q.** Okay. Would it refresh your recollection to take a look
4 at the forensic report generated from the Samsung Galaxy cell
5 phone?

6 **A.** When you're saying the Galaxy Samsung cell phone forensic
7 report, are you referring to which date?

8 **Q.** I'm referring to the extraction done on July 10, 2015, by
9 Agent Miller.

10 **A.** Okay.

11 **Q.** Yes? It would refresh your recollection?

12 **A.** Yes.

13 **MR. FAKHOURY:** May I approach, Your Honor?

14 **THE COURT:** You may.

15 **BY MR. FAKHOURY:**

16 **Q.** Why don't you take a look at that and let me know when
17 you've had a chance to review it.

18 **A.** I've had a chance.

19 **Q.** Okay. So now that you've had a chance to review it, there
20 were 656 audio files on the Samsung Galaxy phone when it was
21 imaged in July 2015, correct?

22 **A.** Correct.

23 **Q.** Let me grab that report from you.

24 **MR. FAKHOURY:** May I approach, Your Honor?

25 **THE COURT:** Go ahead.

REINKE - CROSS / FAKHOURY

1 BY MR. FAKHOURY:

2 Q. Now, you testified that you were -- are assigned to a
3 counterterrorism unit within the FBI. Did I have that correct?

4 A. I was.

5 Q. And obviously given the fact it's the 21st century and
6 everybody's got a cell phone, part of your training and
7 education on counterterrorism is about how people communicate
8 online.

9 A. That's a part of it, yes.

10 Q. You're aware that there are messaging apps on cell phones,
11 correct?

12 A. I am.

13 Q. And there's some pretty obvious ones everybody knows about
14 like iMessage if you have an iPhone, or Facebook Messenger,
15 right?

16 A. Correct.

17 Q. Now as part of your counterterrorism training, you've been
18 trained, I assume, about apps that terrorist organizations,
19 like ISIS, for example, rely on in order to communicate with
20 potential other individuals. Right?

21 A. I have.

22 Q. Like an app like Telegram, for example.

23 A. That's one of them, yes.

24 Q. KIK is another one. K-I-K. Right?

25 A. Correct.

REINKE - CROSS / FAKHOURY

1 **Q.** These apps have sort of like enhanced privacy protection,
2 right?

3 **A.** Correct. Encrypted.

4 **Q.** Exactly. They're encrypted. What does encryption mean
5 just so everybody's on the same page here?

6 **A.** I can give you a laymen's term.

7 **Q.** Sure.

8 **A.** I'm definitely not like Mr. Rajkumar, a computer
9 scientist. But encryption to me means that it's unable to be
10 cracked or intercepted by any outside parties besides the
11 sender and the receiver.

12 **Q.** Got it. Okay. Yeah, that's -- that works. Now some of
13 these programs that you've talked -- that we've been talking
14 about, like Telegram or KIK, as you said these are encrypted
15 messenger apps. Right?

16 **A.** Correct.

17 **Q.** They don't come standard on a Samsung Galaxy cell phone,
18 right?

19 **A.** No.

20 **Q.** You'd have to go out of your way to download the app onto
21 your phone in order to use it. Right?

22 **A.** Well, today I'm not sure if a new Galaxy would come with
23 one of those. But I think in 2015, 2014, that's accurate.

24 **Q.** Now, the Samsung Galaxy cell phone -- Mr. Shafi's Samsung
25 Galaxy cell phone -- didn't have Telegram installed on it,

1 correct?

2 **A.** It did not.

3 **Q.** It did not have KIK installed on it, correct?

4 **A.** It did not.

5 **Q.** Okay. You reviewed the image of Mr. Shafi's MacBook,
6 right?

7 **A.** Correct.

8 **Q.** And sort of -- we've talked very briefly about encryption
9 on a cell phone. A laptop can also have encryption programs
10 built into it as well, right?

11 **A.** To my knowledge.

12 **Q.** Okay. Now, I'm assuming as part of your duties with the
13 FBI you're familiar with some computer software, computer
14 program, called Tor. Have you ever heard of that before?

15 **A.** I have.

16 **Q.** What's Tor?

17 **A.** I wouldn't want to give my extreme layperson's definition
18 of Tor, because I couldn't -- it's just a way to -- my
19 understanding it's a way to be dark on the internet.

20 **Q.** Okay. What do you mean by "dark on the internet"?

21 **MR. HASIB:** Objection, Your Honor. I'm not sure that
22 the witness is qualified to answer that question.

23 **THE COURT:** Well, he can testify to what he was saying
24 when he said "dark."

25 **THE WITNESS:** In the sense that, similar to

REINKE - CROSS / FAKHOURY

1 encryption, it's hard to track a user that might be using the
2 Tor network.

3 **BY MR. FAKHOURY:**

4 Q. And just like terrorist groups like ISIS rely on encrypted
5 messenger programs on cell phones to communicate with people,
6 these groups also -- and tell me if you know this -- but these
7 groups also rely on the dark web in order to get their message
8 out to potential recruits, or whatever you want to -- people
9 interested in the group. Correct?

10 A. To my understanding, yes.

11 Q. Okay. Now, this dark web -- to the extent -- just answer
12 based on what you know and what you feel comfortable telling
13 me. The dark web, like you said, makes it hard to trace where
14 the user is coming from. That's, basically, the point of it,
15 right?

16 A. To my understanding, yes.

17 Q. Now, you testified that you reviewed the forensic image of
18 Mr. Shafi's MacBook, right?

19 A. I did.

20 Q. And there's -- it doesn't have the Tor software installed
21 on it, correct?

22 A. No, it does not.

23 Q. Are you familiar with what a virtual private network or
24 VPN is?

25 A. Vaguely.

REINKE - CROSS / FAKHOURY

1 **Q.** Okay. What does it mean to you? Or describe -- describe
2 what you know about it.

3 **A.** I wouldn't -- I wouldn't want to opine on that one.

4 **Q.** Okay. So far we've talked about Mr. Shafi's MacBook, and
5 we've talked about Mr. Shafi's cell phone. And we've already
6 heard testimony about Mr. Karim's cell phone, right?

7 **A.** Correct.

8 **Q.** Okay. Now, there are other electronic devices at
9 Mr. Shafi's home on July 3 that the FBI did not take, right?

10 **A.** Correct.

11 **Q.** Okay.

12 **MR. FAKHOURY:** Ms. Cruz, could you pull up AS-00056?
13 This is Exhibit 64-031. These exhibits have all been admitted
14 into evidence.

15 **Q.** So this is an example of a laptop that was not seized or
16 imaged by the FBI, correct?

17 **A.** Correct.

18 **Q.** And that's because there was no indication that Mr. Shafi
19 used this laptop, right?

20 **A.** Correct.

21 **Q.** Okay.

22 **MR. FAKHOURY:** Ms. Cruz, could you pull up AS-0038,
23 this is Exhibit 64-038 -- I'm sorry. I have the wrong Bates
24 number.

25 Give me one second, Your Honor. Thank you.

REINKE - CROSS / FAKHOURY

1 (Pause.)

2 **MR. FAKHOURY:** My apologies.

3 **THE COURT:** No problem.

4 **BY MR. FAKHOURY:**

5 **Q.** Okay. Now we've got the right exhibit. This is Trial
6 Exhibit 64-031. Here's some additional electronic devices that
7 were not seized or searched by the FBI, right?

8 **A.** Correct.

9 **Q.** Okay.

10 Can you go to the next page, Ms. Cruz?

11 Here's another -- this is an Apple desktop computer,
12 correct?

13 **A.** Correct.

14 **Q.** And one more, can you go to the next page?

15 There's two laptops there, actually, right? And those
16 were not seized, either, correct?

17 **A.** No, I'm not sure about that one.

18 **Q.** Was the -- well, let's start with the Del computer. The
19 Del computer was not seized, correct?

20 **A.** The Del computer was not seized.

21 **Q.** And the MacBook in the back there, that's Mr. Shafi's
22 MacBook then.

23 **A.** Yes, it is.

24 **Q.** Okay. I want to turn gears now, or shift gears now, to
25 talk in some detail -- a little more detail the timeline and

REINKE - CROSS / FAKHOURY

1 some of the Google records related to the timeline, okay?

2 **A.** Okay.

3 **Q.** And I guess the first thing I wanted to ask is more of a
4 general question. With a YouTube search, it's pretty easy to
5 figure out what exactly the user is looking for. They're
6 looking for a video, right?

7 **A.** Correct.

8 **Q.** That's only thing you can find on YouTube, right?

9 **A.** It's a video-sharing site yes.

10 **Q.** If a person does a search in Google Maps for directions,
11 it's pretty clear what they're looking for, right?

12 **A.** Yes.

13 **Q.** They're looking for directions, right?

14 **A.** Correct.

15 **Q.** Now if a person does a search within Google, is it clear
16 what exactly they're looking for?

17 **A.** I don't know -- when you're saying "when a person," just
18 any person in general?

19 **Q.** Okay. Let me say -- ask it differently. A person types
20 in a phrase in the Google search box. They could be looking
21 for all sorts of things related to that topic, right?

22 **A.** Potentially.

23 **Q.** Okay. So they could be looking for news articles. That's
24 one example. Right?

25 **A.** They could.

REINKE - CROSS / FAKHOURY

1 **Q.** They could be looking for the Wikipedia article for the
2 item that they searched for, right?

3 **A.** In this hypothetical, you're asking about?

4 **Q.** I'm just saying in general. I'm just talking about
5 generally how people use Google.

6 **A.** Yeah. Sure.

7 **Q.** It's not obviously -- well, let me say it this way: It
8 can sometimes be obvious what a person is looking for when they
9 do a Google search query. Like if they search for "directions
10 to Costco," right?

11 **A.** Yes. In that instance.

12 **Q.** It can sometimes not be clear what a person is searching
13 for if they do a search for something like "burgers," to use a
14 benign example.

15 **A.** You could say that.

16 **Q.** Okay. So with that sort of starting point I want to turn
17 to the timeline now, and I want to start my turning your
18 attention to page 4 of your timeline, the entry for August 22,
19 2014.

20 Now, on the timeline on August 22, 2014, you noted that
21 there were Google searches for how to format a hard drive; how
22 to format a hard drive Mac, X 2; how to restore a Mac with a
23 password; and that there was a visit to an article on
24 Lifehacker that has the URL "How to erase and format a hard
25 drive." Do you see that entry?

REINKE - CROSS / FAKHOURY

1 **A.** I do.

2 **Q.** Ms. Cruz, could you pull up Trial Exhibit 137-183. And
3 can you look for the lines 7814 towards the bottom? Zoom in
4 there, and then scroll down. Sorry. From 7814 to the bottom
5 of the page. Thank you.

6 So that's where -- on the screen here, that's where in the
7 Google records that search query comes from, correct?

8 **A.** That's correct.

9 **Q.** Okay.

10 Ms. Cruz, can you pull up page 187 of that same exhibit?
11 Exhibit 137? And can you zoom in on starting at line 7883 all
12 the way to the bottom.

13 Now, these are Google records from the same exhibit,
14 right?

15 **A.** Correct.

16 **Q.** And these are the Google search queries done on July 2,
17 2014, for reflexatron@gmail.com. Correct?

18 **A.** Correct.

19 **Q.** And these search queries indicate that there were searches
20 done for how to restore a Mac with a password, correct?

21 **A.** Correct.

22 **Q.** As well as searches for how to factory reset a Mac,
23 correct?

24 **A.** Correct.

25 **Q.** If you look specifically at line item 7891, it indicates

REINKE - CROSS / FAKHOURY

1 there was a search for: Can I restore a Mac that has a
2 password. Right?

3 **A.** Yes, I see that.

4 **Q.** You could take that down, Ms. Cruz.

5 Now, the day after those searches, on July 3, 2014,
6 there's a \$2,156 purchase at the Apple store in Walnut Creek on
7 your timeline. Right?

8 **A.** There is.

9 **Q.** Okay. Okay. Let's keep going through this timeline. I
10 had some other items I wanted to talk with you about.

11 On the timeline on May 12, 2014, there's a YouTube search
12 for: Join ISIS, Syria. Do you see that on the top of the page
13 -- top of page 2?

14 **A.** I do.

15 **Q.** Okay. Can you point to me where in the timeline there was
16 a search for "join ISIS" after June 1, 2015 -- I'm sorry --
17 June 1 -- yes. June 1, 2015.

18 **A.** From the timeline.

19 **Q.** From the timeline.

20 **A.** You said June 1, 2015?

21 **Q.** Correct.

22 **A.** I don't see any with that same wording.

23 **Q.** Okay. Can you tell me -- can you show me where on the
24 timeline there's a search on Google for "join ISIS" that took
25 place after August 20, 2014?

REINKE - CROSS / FAKHOURY

1 **A.** You said "join ISIS"?

2 **Q.** Correct.

3 **A.** There isn't one.

4 **Q.** Okay. Let's keep going through the timeline. Now, you
5 mentioned that the -- sorry.

6 Actually, here, let's do this: Let's jump to June 25,
7 2015, on the timeline. Let me know when you have that.

8 **A.** Okay.

9 **Q.** Okay. Now, on the timeline it indicates that there was a
10 YouTube search in Arabic for the Islamic State anthem,
11 homeland, five times, correct?

12 **A.** Correct.

13 **Q.** Okay. Ms. Cruz, can you pull up Trial Exhibit 138-002?
14 Can you jump into, basically, the top half of the page?

15 Okay. The entries here, starting at lines 42 and going
16 down, that's the search for the Islamic State anthem, done on
17 YouTube, correct?

18 **A.** I can't read Arabic.

19 **Q.** Okay. Well, these are the only search entries for
20 June 25, correct? On the YouTube search results. Right?

21 **A.** No, I see one below it. Row 47.

22 **Q.** Oh, I see it. Okay. And let me just double check here.

23 Well, let's do it this way. You have Trial Exhibit 138 in
24 front of you, right?

25 **A.** Yes.

REINKE - CROSS / FAKHOURY

1 **Q.** Okay. Why don't you take a look at the first two pages.
2 Just the bottom line of -- starting at line -- actually, no,
3 I'm sorry. Strike that.

4 Go to page 2 of that exhibit, look at line 42 through line
5 47. Those are the only searches on YouTube on June 25,
6 correct?

7 **A.** Correct.

8 **Q.** Now, you testified a lot about these date lines; they have
9 the date and the time in UTC format. Right?

10 **A.** Correct.

11 **Q.** You're able to do something I can't, which is to convert
12 UTC to Pacific Standard Time. But in any event, these searches
13 were all done within a 26-minute window, correct? All of the
14 searches on June 25 took place in a 26-minute window, right?

15 **A.** Approximately, yes.

16 **Q.** Okay. And, in fact, if you look at line 47, there's a
17 search done at 7:01 UTC and 50 seconds, and then a second
18 search done at 7:02:39 UTC, right?

19 **A.** Correct.

20 **Q.** So that's 40 seconds later, give or take five seconds.
21 Correct?

22 **A.** Correct.

23 **Q.** And then the next search is done about two minutes later,
24 right?

25 **A.** Yes.

REINKE - CROSS / FAKHOURY

1 **Q.** Then there's about a 22-minute gap before the next search,
2 right?

3 **A.** That's correct.

4 **Q.** Line 44?

5 **A.** Correct.

6 **Q.** And then the three remaining searches from that day all
7 took place in a span of about 25 seconds, right?

8 **A.** Yes.

9 **MR. FAKHOURY:** You could take that down, Ms. Cruz.

10 **Q.** Let's go to June 14, 2015, on your timeline. Let me know
11 when you have that. It's on page 11.

12 **A.** I'm there.

13 **Q.** So on June 14, 2015, there's two, entries. There's viewed
14 image at targmat.com, the Legal Foundations of the Islamic
15 State; and there's a Google search in Arabic for the Islamic
16 State, four times; and the sign of monothesim, four times. Do
17 you got that?

18 **A.** I do.

19 **Q.** Ms. Cruz, can you pull up Exhibit 137-006? And can you
20 zoom in on line 191 and to the top of the page.

21 Okay. Now, line 191 is the search for the Islamic State.

22 **A.** Again, I can't read Arabic.

23 **Q.** Okay. Well, let's take a look at line 190, then. 190 is
24 a search done about 45 seconds -- or, I'm sorry. It's an image
25 was viewed 45 seconds after this search listed at line item

1 191. Do you see that?

2 A. I do.

3 Q. Okay. And it indicates that the image that was viewed was
4 an image from Al Jazeera, is that right?

5 A. Yes.

6 Q. The very next image, so this would be line number 189, is
7 another image viewed from Al Jazeera. Do you see that?

8 A. I do.

9 Q. And then the next item, which is about 30 seconds or 40
10 seconds later is an image from france24.com. Do you see that?

11 A. I do.

12 Q. And then the next image viewed, which is about a minute
13 later, is from the timesofisrael.com. Do you see that?

14 A. I do.

15 Q. Ms. Cruz, can you go to page 7 of that exhibit? 137.
16 Thank you.

17 Okay. And Ms. Cruz, can you zoom in on items 207 to 212.
18 Okay.

19 So now this viewed image of the Legal Foundations of the
20 Islamic State, that's on your timeline on page 11, right?

21 A. Correct.

22 Q. And here -- and it indicates that it was viewed three
23 times, right?

24 A. Correct.

25 Q. Okay. And here is, in the Google data, the three times

REINKE - CROSS / FAKHOURY

1 that this was viewed, right?

2 **A.** Correct.

3 **Q.** So if you look at line 212, it indicates that the image
4 was viewed at 8:50 and 29 seconds, UTC right?

5 **A.** Yes.

6 **Q.** And then viewed again 14 seconds later, right?

7 **A.** That's correct.

8 **Q.** And then viewed again about -- I'm a lawyer, I can't do
9 math -- so about 19 seconds later, right?

10 **A.** That looks right.

11 **Q.** You can take that down.

12 Okay. I want to turn now to June 5, 2015. We've heard a
13 lot about June 5, 2015. And let's start by talking about --
14 this is the day that Mr. Shafi -- or, reflexatron or
15 Mr. Shafi -- viewed the video of the *emir* of the al-Nusrah
16 Front. Right?

17 **A.** That's the day that reflexatron viewed the video.

18 **Q.** Sure. And that's what is indicated in the timeline,
19 right? On June 5, 2015. Right?

20 **A.** Correct.

21 **Q.** You've watched that interview, right?

22 **A.** I have.

23 **Q.** Now that interviewed was aired on Al Jazeera, right?

24 **A.** To my understanding, yes.

25 **Q.** And in this case it was viewed on YouTube, correct?

REINKE - CROSS / FAKHOURY

1 **A.** Correct.

2 **Q.** You didn't need to use Tor or some secret encryption tool
3 or go on the dark web to watch this interview.

4 **A.** That's correct.

5 **Q.** Now you said you watched this interview, right?

6 **A.** So we had an agent that downloaded the interview when it
7 was still able to be found on the internet. But recently we've
8 been trying to find it and couldn't find it on the internet.

9 Apparently, it was taken down.

10 **Q.** But you have it in your case file, right?

11 **A.** Yes, we do.

12 **Q.** And you know the video is about an hour long. The
13 interview is about an hour long, right?

14 **A.** I believe it's more than an hour.

15 **Q.** More than an hour. Do you know how much longer?

16 **A.** I couldn't give you the exact time. It's in two parts.

17 **Q.** Okay. But it's at least an hour long.

18 **A.** At least.

19 **Q.** In your timeline, you indicate that there was a YouTube
20 search for that video four times, right? On June 5?

21 **A.** That's correct.

22 **Q.** Okay. Ms. Cruz, can you -- oops, sorry. That's the wrong
23 exhibit.

24 Ms. Cruz, can you pull up Exhibit 138-004? And can you
25 zoom in on lines 116 through 120. That's fine like that.

REINKE - CROSS / FAKHOURY

1 Thank you.

2 These are the YouTube searches for that video, right?

3 **A.** Again, I can't read Arabic. But potentially.

4 **Q.** Okay. Now, line item 120 shows that a video was searched
5 for on 7:32:50, UTC time. Right?

6 **A.** It does.

7 **Q.** Then the next item, 119, shows a search done at 8:24:46
8 UTC. Right?

9 **A.** It does.

10 **Q.** It's about 50 minutes after the first search, right?

11 **A.** Correct.

12 **Q.** Then the next search at 118 is exactly about three
13 and-a-half minutes later, right?

14 **A.** Correct.

15 **Q.** Then there's a big gap in time. About a ten-hour gap.
16 Right?

17 **A.** Yes.

18 **Q.** Then there's a video searched for at 18:16:46 UTC. Right?
19 That's item 117?

20 **A.** Correct.

21 **Q.** Then the next search is about five minutes later, right?

22 **A.** That's right.

23 **Q.** Now, like I said, you can convert UTC to Pacific Time and
24 I can't. So you're aware that the first time the -- this
25 al-Joulani video was accessed on YouTube was at 8:28 a.m. UTC

REINKE - CROSS / FAKHOURY

1 time, right?

2 **A.** Again, I can't read Arabic, so I'm not sure which line
3 you're referring to.

4 **Q.** Would it refresh your recollection if I showed you a 302
5 you wrote containing the same information?

6 **A.** It might.

7 **Q.** Okay.

8 **MR. FAKHOURY:** May I approach, Your Honor?

9 **THE COURT:** You may.

10 **BY MR. FAKHOURY:**

11 **Q.** Showing you what's been marked as trial Exhibit 103. Can
12 you just take a look at that, familiarize yourself with it, and
13 then let me know when you're done.

14 **A.** Okay.

15 **Q.** Okay. Let me grab that back from you.

16 **MR. FAKHOURY:** May I approach, Your Honor?

17 **THE COURT:** Yes.

18 **BY MR. FAKHOURY:**

19 **Q.** Has your memory been refreshed?

20 **A.** Yes.

21 **Q.** So approximately the first time this video was viewed on
22 the reflexatron account was around 8:27 a.m. UTC time, right?

23 **A.** According to that 302? Or according to this?

24 **Q.** According to your report (indicating.) Do you need to see
25 it again?

REINKE - CROSS / FAKHOURY

1 **A.** Yeah, it would help.

2 **Q.** Sure.

3 **MR. FAKHOURY:** May I approach?

4 **THE COURT:** Go ahead.

5 **THE WITNESS:** Okay.

6 **BY MR. FAKHOURY:**

7 **Q.** Okay. Your memory's refreshed again?

8 **A.** Yes.

9 **Q.** So it's about 8:27 a.m.?

10 **A.** Can you repeat the full question?

11 **Q.** Sure. Let's do it this way. Why don't you hold on to
12 this.

13 **A.** Thank you.

14 **Q.** Sure. So the question was: According to your report --
15 and I understand you can't read Arabic, but --

16 **A.** Sure.

17 **Q.** But around the same -- but it essentially lines up with
18 the YouTube records. This video was accessed for the first
19 time at 8:28 a.m. UTC time.

20 **A.** By Mr. Shafi? Or by reflexatron@gmail.com?

21 **Q.** Is there a difference in your mind?

22 **A.** There is a difference. These records reflect what
23 reflexatron@gmail.com looked up on YouTube. And the first time
24 it accessed what appears to be Arabic for the interview was
25 earlier in the morning. This report is in regards to the Apple

REINKE - CROSS / FAKHOURY

1 MacBook Pro, and when the MacBook Pro accessed the YouTube
2 link. I have no way of knowing if he was logged in as
3 reflexatron at that time on this laptop.

4 Q. So you're basing it on your ability to read Arabic, then.

5 A. No. I'm just saying that based on this exhibit you're
6 showing me on the screen, and this exhibit you gave me to help
7 refresh my memory, they're not the same. This is in relation
8 to the MacBook Pro. And when whoever used the MacBook Pro
9 accessed what I think is the same YouTube link, this is when
10 reflexatron@gmail.com accessed the YouTube link.

11 Q. Okay.

12 A. So it seems like reflexatron accessed it very early in the
13 morning on June 5 -- or, on June 4. And someone using a
14 MacBook Pro accessed it a little bit later on in the morning.

15 Q. Let me retrieve my exhibit. What do you mean by "very
16 early in the morning"? What time are you talking about
17 specifically?

18 A. I'm talking about UTC based on the YouTube --
19 reflexatron@gmail.com YouTube search history.

20 Q. Right. I'm talking about which line item are you talking
21 about? And we can undue the zoom-in or you can look at the
22 paper exhibit. If you can tell me the specific line number
23 you're referring to.

24 A. Again, I can't read Arabic. So which line are you
25 referring to?

REINKE - CROSS / FAKHOURY

1 **Q.** I'm asking you. You're saying that there's an indication
2 that there's an extra viewing on the YouTube search result
3 history. And I'm asking you which line item are you talking
4 about?

5 **A.** That's not what I'm saying.

6 **Q.** Then what are you saying?

7 **A.** You provided me a 302 that references information that was
8 obtained from the MacBook.

9 **Q.** Okay.

10 **A.** And on that MacBook, had a time that you had asked me if
11 that time was reflected on the YouTube search history. And I
12 don't see it.

13 **Q.** You don't see --

14 **A.** I see the time that you were asking about on the MacBook
15 302 you handed me.

16 **Q.** Okay. So the time on the MacBook -- let's do it this way.
17 This 302 is your analysis of the MacBook image, right?

18 **A.** Correct.

19 **Q.** And based on your analysis of the MacBook image -- that's
20 Mr. Shafi's MacBook, right?

21 **A.** That's correct.

22 **Q.** Based on your analysis of Mr. Shafi's MacBook, this video
23 was viewed at 8:28 a.m. UTC time based on your review of the
24 MacBook, right?

25 **A.** Correct.

REINKE - CROSS / FAKHOURY

1 **Q.** And there's an entry in this exhibit, 138, at line 118,
2 that a video on YouTube was accessed at 8:28 a.m. UTC time.

3 Right?

4 **A.** Correct.

5 **Q.** Okay. Now, you're saying there's an additional item on
6 the YouTube search record that is not on this (indicating),
7 right?

8 **A.** No. I'm saying I don't know what that Arabic is for
9 8:28:01 UTC on June 5.

10 **Q.** Okay. Now we're all on the same page. Okay. Thank you
11 for clarifying that. Based on your review of the MacBook, the
12 video was viewed at 8:28 a.m. UTC. Right? Just so we're all
13 on the same page.

14 **A.** Correct.

15 **Q.** I'm sorry that took a long time. All right.

16 Now, 8:28 a.m. UTC is what time Pacific Time?

17 **A.** 8:28 UTC would be 1:28 in the morning Pacific Time.

18 **Q.** So about 1:30 a.m.?

19 **A.** Correct.

20 **Q.** Now, we heard excerpts from the phone call between
21 Mr. Shafi and Mr. Karim. That was Exhibit 6, and the
22 transcript is Exhibit 22. And you testified earlier today that
23 that phone call started at about 2:40 in the morning Pacific
24 Time, right?

25 **A.** I think I said approximately 2:30, but --

REINKE - CROSS / FAKHOURY

1 **Q.** Okay. 2:30 a.m.

2 **A.** Yes.

3 **Q.** So shortly after this video was accessed, based on your --
4 based on your analysis of the MacBook.

5 **A.** An hour after the MacBook accessed it, yes.

6 **Q.** Now, we've been talking at length --

7 You can cancel that, Ms. Cruz.

8 We've been talking at length about these Google search
9 queries (indicating.) And you've reviewed all these Google
10 search queries, right?

11 **A.** I have.

12 **Q.** And --

13 **A.** Well, I want to say "have." I attempted to. There were a
14 lot of them, so I tried to focus on certain time frames more
15 than other time frames.

16 **Q.** Okay. And you obviously focused on certain phrases or
17 words more than other phrases, too, right?

18 **A.** Correct.

19 **Q.** Can you tell me when after June 5, 2015, Mr. Shafi did a
20 search for Mohammed al-Joulani?

21 **A.** I did not see that in the records.

22 **Q.** Can you tell me where in the records after June 5, 2015,
23 reflexatron@gmail did a search for the al-Nusrah Front on
24 Google?

25 **A.** I don't believe there was one after that time.

1 **Q.** Okay. I'm going to turn your attention to page 2 of your
2 timeline. There's an entry on May 21, 2014, for the term in
3 Arabic, *Jabhat al-Nusrah*, two times. Do you see that?

4 **A.** I do.

5 **Q.** Can you tell me where in the Google records after May 21,
6 2014, there is a YouTube search for *Jabhat al-Nusrah* after this
7 day?

8 **A.** I don't believe there is one.

9 **MR. FAKHOURY:** Can I have a minute, Your Honor?

10 **THE COURT:** You may.

11 (Pause.)

12 **MR. FAKHOURY:** Thank you, Your Honor. Sorry about
13 that.

14 **BY MR. FAKHOURY:**

15 **Q.** Let's run through a couple more of these Google search
16 records. You're aware that Mr. Shafi was enrolled at San
17 Francisco State University, was about to start classes there.
18 Right?

19 **A.** I believe he was in a dialogue with San Francisco State
20 about potentially starting classes. I don't know if he was
21 actually enrolled or not.

22 **Q.** Okay. And you're aware that there was quite a few Google
23 search records for San Francisco State University, right?

24 **A.** I believe there's a few, yes.

25 **Q.** A few?

REINKE - CROSS / FAKHOURY

1 **A.** I don't have the exact number, but there are searches for
2 it, yes.

3 **Q.** Okay. Are any of those in your timeline?

4 **A.** They are not.

5 **Q.** Okay. I want to turn now to June 8, 2015. Why don't you
6 turn to that page of the timeline.

7 **A.** Okay.

8 **Q.** Now, that timeline indicates that Mr. Shafi had a phone
9 call with Saleem -- with Saleem Karim to discuss a dream he
10 had. You see that entry?

11 **A.** I do.

12 **Q.** Okay. Now -- and we've heard some excerpts from that
13 phone call, right?

14 **A.** Correct.

15 **Q.** Okay. Now, that's a pretty lengthy phone call, right?

16 **A.** To my knowledge, yes.

17 **Q.** Okay. I want to play a couple clips from those phone
18 calls.

19 **MR. FAKHOURY:** Just in terms of planning purposes,
20 Your Honor, the total of the phone call clips I intend to play
21 are -- there's a number of clips, but they're pretty short.
22 They're about five or six minutes apiece.

23 **THE COURT:** Okay. Let's do a couple of them, then
24 we'll take a break.

25 **MR. FAKHOURY:** Ms. Cruz, can you play clip number 4?

REINKE - CROSS / FAKHOURY

1 (Audio was played but not reported.)

2 **MR. FAKHOURY:** Okay. Ms. Cruz, can you play clip
3 number 5?

4 (Audio was played but not reported.)

5 **BY MR. FAKHOURY:**

6 **Q.** Okay. And can you see the Arabic translation chart from
7 where you are? I know it's -- okay. I'm going to -- you know
8 what? I'll tell you what. I have a paper copy.

9 **MR. FAKHOURY:** May I approach, Your Honor?

10 **THE COURT:** You may.

11 **BY MR. FAKHOURY:**

12 **Q.** Leave that one for the jury. *Fitnah* means sedition,
13 right? Or seduction, depending on the context, right?

14 **A.** That's what the chart says, yes.

15 **Q.** Let me take that because I need the cheat sheet, too.

16 Okay.

17 Ms. Cruz, can you play clip number 6?

18 (Audio was played but not reported.)

19 **THE COURT:** All right. Is this a convenient time for
20 a break?

21 **MR. FAKHOURY:** Sure.

22 **THE COURT:** Ladies and gentlemen, we'll take our
23 second break and be back at 11:30. Please remember the
24 admonitions.

25 (Jurors exiting the courtroom.)

THE COURT: Do you have an expectation with respect to whether we'll get to Mr. Vidino? What should I tell the jury?

MR. FAKHOURY: I suspect we could start his direct. I don't know how long Mr. Hasib has. I don't have too much more on cross. And I don't know, obviously, how long Dr. Vidino's direct will be.

THE COURT: All right. So I'll keep them guessing.

Okay. All right. We'll be in recess until 11:30.

(Recess taken at 11:17 a.m.)

(Proceedings resumed at 11:32 a.m.)

THE COURT: All right. Please be seated, everybody.

Mr. Fakhoury.

MR. FAKHOURY: Thank you, Your Honor.

BY MR. FAKHOURY:

Q. Agent Reinke, we had just heard an audio clip that had two Arabic words in it and I wanted to see if you knew what those words meant because they're not on the glossary (indicating.) So the first was (*Arabic*). Do you know what that means?

A. I do not.

Q. Do you know what the word (Arabic) means?

A. I do not.

Q. And again, those aren't on the glossary, right?

A. To my understanding, yes.

Q. Yes, they're not --

A. They're not on there.

Q. Okay.

Ms. Cruz, can we play clip number 7, please?

(Audio was played but not reported.)

MR. FAKHOURY: Okay. Let's play clip number 8. This is also from the June 8 phone call.

(Audio was played but not reported.)

MR. FAKHOURY: There is a long pause in the recording.

I'm sorry.

(Audio recording continuing.)

MR. FAKHOURY: Okay. And let's play clip number 9.

MR. HASIB: I'm sorry. Can we get the time that that

(Off-the-record discussion with Mr. Fakhoury)

(Audio was played but not reported.)

BY MR. FAKHOURY:

Q. We heard on that call a reference to Yemen. You remember that?

A. Yes.

Q. And you know that Yemen is a country in the Middle East, right?

A. Correct.

Q. And if you've reviewed the Google search data you know that -- you know that there's a Google search for the cost of living in Yemen, right?

REINKE - CROSS / FAKHOURY

1 **A.** I do.

2 **Q.** And that was on May 10, 2015, right?

3 **A.** I don't know exact date, but I recall it being later on in
4 the records.

5 **Q.** Okay. That's not on your timeline, right?

6 **A.** No.

7 **Q.** Okay. Now something that is on your timeline is on -- is
8 a call on June 18, 2015. That's on page 11. Do you see that?

9 **A.** I do.

10 **Q.** Okay. I want to play a clip from that same phone call.

11 Ms. Cruz, can you play clip number 11?

12 **THE COURT:** What's the exhibit number?

13 **MR. FAKHOURY:** The audio exhibit is 6, and the
14 transcript exhibit is 22.

15 **THE COURT:** Thank you.

16 (Audio was played but not reported.)

17 **MR. FAKHOURY:** Okay, thank you.

18 **BY MR. FAKHOURY:**

19 **Q.** I want to shift gears a little bit and talk about the map
20 that's been admitted as Trial Exhibit 33.

21 I'm sorry. You're right. That's Exhibit 114.

22 Ms. Cruz, can you pull that up?

23 Now, I believe it was Agent Sung who testified that he put
24 the map together. Is that right?

25 **A.** That's correct.

REINKE - CROSS / FAKHOURY

1 **Q.** And now you're the case agent though, right?

2 **A.** Correct.

3 **Q.** And so did you have any involvement in the creation of
4 this map?

5 **A.** Very little. This map was created two, three, four weeks
6 ago while I was moving my family to South Dakota. So Agent
7 Sung stepped in and helped out a fellow agent.

8 **Q.** Sure. Now he testified that the map had locations of
9 investigative interest on it. Is that -- I believe that was
10 his testimony. Do you recall that?

11 **A.** Correct. That sounds accurate.

12 **Q.** And, obviously, item 7 up here on the very top of the map
13 is Istanbul, right?

14 **A.** That's correct.

15 **Q.** Now, location number 2 is Gaziantep in Turkey. Are you
16 familiar with Gaziantep in Turkey?

17 **A.** Just via Google searches and Google Map and Wikipedia.

18 **Q.** Okay. You're aware Gaziantep is actually a pretty large
19 city in Turkey, right?

20 **A.** Yes.

21 **Q.** Got about one, one and-a-half million people live in
22 Gaziantep?

23 **A.** I think I saw half a million to a million. But I'll take
24 your number. Large city.

25 **Q.** Big city. Sure. And you're aware it's about -- if you've

REINKE - CROSS / FAKHOURY

1 done some Google Map data, or looked at it on Google Maps, you
2 aware that Gaziantep's about 700 miles away from Istanbul,
3 right?

4 **A.** That sounds accurate, yes.

5 **Q.** Are you familiar with a city in Syria named Idlib? Or
6 province?

7 **A.** I am.

8 **Q.** You are?

9 **A.** Similarly to Gaziantep; Google searches, things of that
10 nature.

11 **Q.** Where on this map is Idlib?

12 **A.** I would have to -- it's not listed on the map, but from my
13 recollection it's in north central Syria.

14 **Q.** Okay. Perhaps we can go to page 2 of this exhibit. Do
15 you see Idlib here? For the sake of time I can just -- it's
16 kind of on the bottom left quadrant of the map. Do you see
17 that there?

18 **A.** I do.

19 **Q.** Okay. Now, you're aware that Idlib is sort of the home
20 base of the al-Nusrah Front. Right?

21 **A.** I don't know if I'd use that same terminology, but I know
22 that there's a lot of activity there for al-Nusrah Front,
23 correct. Or there was.

24 **Q.** Okay. Now, Idlib's not marked on -- I'm sorry. Strike
25 that.

REINKE - CROSS / FAKHOURY

1 Can you go to the first page, Ms. Cruz?

2 This now -- this map has this box here (indicating). I
3 realize I'm just pointing and nobody can see where I'm pointing
4 to. But there's this box here in kind of the left-hand side.
5 That's the locations that were deemed of investigative
6 interest, right?

7 **A.** Correct.

8 **Q.** And Idlip is not on that list, right?

9 **A.** That's correct.

10 **Q.** Can you point to me where in the timeline there's any
11 Google or YouTube search history for Idlip.

12 **A.** On the timeline?

13 **Q.** Yes.

14 **A.** There's not any.

15 **Q.** Now, if you've reviewed the Google search data, you're
16 aware that the reflexatron account did searches for a lot of
17 other locations, right?

18 **A.** Yes.

19 **Q.** Around the world.

20 **A.** Yes.

21 **Q.** And you've marked some of them, right? Searches for
22 Mexico City and Gaziantep, right?

23 **A.** Correct.

24 **MR. FAKHOURY:** You can remove the map -- actually, I'm
25 sorry. You can leave the map up. My apologies.

REINKE - CROSS / FAKHOURY

1 **Q.** Now, the Google search data shows that there were also
2 searches for Germany, for example, right?

3 **A.** Correct.

4 **Q.** Morocco, right?

5 **A.** I don't know if I remember Morocco, but that's --
6 potentially.

7 **Q.** Okay. Oman, right?

8 **A.** Possibly.

9 **Q.** Dubai?

10 **A.** All of these I'm not sure exactly where or if they are in
11 the records, but they possibly might be. There's quite a few
12 records.

13 **Q.** Possibly because it's -- theoretically could be? Or
14 possible because you've reviewed the records and you have a
15 recollection of seeing those locations there but can't remember
16 a specific date or location on the exhibit?

17 **A.** I have a recollection of seeing many different locations.
18 I just can't recall Oman or Morocco.

19 **Q.** Okay. On your timeline on -- there's entry on June 16 of
20 2015, right? about a phone call Mr. Shafi had with Saleem
21 Karim, right?

22 **A.** There is.

23 **Q.** Okay. Now, you're aware that on that same day the
24 reflexatron account did a search for construction jobs in Saudi
25 Arabia. Correct?

REINKE - CROSS / FAKHOURY

1 **A.** I would have to look at the records, but I recall a search
2 query of that nature.

3 **Q.** Okay. Sure. Well, let's do that. Let's look through the
4 records. It's Exhibit 137-005. And specifically, Ms. Cruz, if
5 you could zoom in on lines -- maybe lines --

6 **A.** 168. I see it there.

7 **Q.** Okay. Perfect. So you see the search for construction
8 jobs in Saudi Arabia. Right?

9 **A.** I do.

10 **Q.** Oh. Kind of working backwards a little bit, if you go on
11 your time -- Oh. And just so we're clear. That search is not
12 on your timeline, right?

13 **A.** That's correct.

14 **Q.** Okay. And now if you go backwards to June 10, 2015,
15 there's an entry for text message exchange with Mr. Karim. Do
16 you see that on page 10?

17 **A.** I do.

18 **Q.** And you're aware that on that same day the reflexatron
19 account was doing searches for jobs related to being a civil
20 engineer or a planner. Do you recall that?

21 **A.** Again, I recall searches of that nature. And I'm not sure
22 about June 10 or not.

23 **Q.** Okay. Why don't we take a look real quick at the exhibit.
24 It's 137-008. And we're specifically -- maybe we could zoom
25 from line 250 all the way down to maybe 272.

REINKE - CROSS / FAKHOURY

1 These were the searches that you recalled reviewing,
2 right?

3 **A.** Correct.

4 **Q.** And none of that's on the timeline, right?

5 **A.** No.

6 **Q.** Just a few more questions. I wanted to briefly revisit
7 the video of the interview with al-Joulani. You recall which
8 video I'm talking about. We had a discussion about the timing.

9 **A.** I do.

10 **Q.** There were a couple additional questions I forgot to ask
11 that I wanted to go back on. And I think it may be helpful if
12 I can have you take a look at your report (indicating) and
13 refresh your recollection.

14 **A.** Okay.

15 **MR. FAKHOURY:** May I approach, Your Honor?

16 **THE COURT:** You may.

17 **BY MR. FAKHOURY:**

18 **Q.** So why don't you take a look at that and then let me know
19 when you have the contents set in your mind.

20 **THE COURT:** Do you have a specific question that you
21 want him to be thinking about or --

22 **MR. FAKHOURY:** About specific times the video was
23 accessed.

24 Actually --

25

REINKE - CROSS / FAKHOURY

1 BY MR. FAKHOURY:

2 Q. So based on your analysis of the MacBook, the video was
3 accessed at 8:27:28 a.m. UTC, right?

4 A. Correct.

5 Q. And then there's a second entry for that video being
6 accessed 30 seconds later, correct?

7 A. Correct.

8 Q. And then there's a third entry for that video being
9 accessed four seconds after that second entry.

10 A. Again, these times that the video was accessed via the
11 MacBook Pro, was via the MacBook Pro.

12 Q. Right. That's all I asked you. Based on your analysis of
13 the MacBook Pro, you saw that the video was accessed at 8:27:28
14 a.m., correct?

15 A. Via the MacBook Pro.

16 Q. Okay. And then at 8:28 a.m. on the dot, correct?

17 A. Correct.

18 Q. And then again at 8:28:04 a.m. on the MacBook Pro.
19 Correct?

20 A. According to this report, yes.

21 Q. Your report. Right?

22 A. Yes.

23 Q. And then the video was accessed at 9:21:42 a.m. on the
24 MacBook Pro, right?

25 A. On the MacBook Pro.

REINKE - CROSS / FAKHOURY

1 Q. Right. That's all I'm asking about. So it's 9:21:42,
2 right?

3 A. That's when the video was accessed on the MacBook Pro,
4 yes.

5 Q. And then a second time at that same exact time, right?

6 A. Yes.

7 MR. FAKHOURY: May I approach and retrieve my exhibit?

8 THE COURT: Sure.

9 BY MR. FAKHOURY:

10 Q. Now, Mr. Shafi was arrested on July 3, 2015, right?

11 A. That's correct.

12 Q. Okay. Ms. Cruz, can you pull up Exhibit 138-001? And can
13 you zoom in on lines numbers 7 through 13?

14 Okay. There are entries here on July 5, 2015, right?

15 A. Correct.

16 Q. And at that time Mr. Shafi was -- he did not have access
17 to his cell phone or email account, right?

18 A. As far as I know.

19 Q. Okay. Do you know who did these searches?

20 A. No, I have -- reflexatron@gmail.com.

21 Q. That's true. Let me rephrase it. Do you know which
22 person did those searches?

23 A. No.

24 Q. Okay.

25 MR. FAKHOURY: You can take that down.

REINKE - CROSS / FAKHOURY

1 **Q.** Your timeline mentions a couple different organizations
2 like Hidaya and Islamic Relief and the -- a mosque in Boise,
3 Idaho. Do you recall that?

4 **A.** I do.

5 **Q.** These are all, you know, mainstream Islamic charities and
6 nonprofits, right?

7 **A.** Islamic Relief is. The Hidaya Foundation, I'm not sure
8 how big their presence is. But potentially, yes.

9 **Q.** Can you show me where on the timeline after June 5, 2015,
10 there was any Google or YouTube searches for plane tickets to
11 Istanbul?

12 **A.** I don't see any.

13 **Q.** Okay. How about for searches after June 5, 2015, for bus
14 lines in Turkey?

15 **A.** I don't see any.

16 **Q.** About hotel rooms in Turkey?

17 **A.** There are none on there.

18 **Q.** How about flights to Gaziantep?

19 **A.** I don't believe that's on there, but let me check.

20 There's not one.

21 **Q.** Okay. How about for crossing borders?

22 **A.** After June 5, correct?

23 **Q.** Correct.

24 **A.** There's not one.

25 **Q.** How about for Syria?

REINKE - REDIRECT / HASIB

1 **A.** There's none on there.

2 **Q.** How about for the al-Nusrah Front?

3 **A.** I believe you already asked that one.

4 **Q.** Sure. I asked it again.

5 **A.** I don't see it on there.

6 **Q.** And how about Mohammad al-Joulani?

7 **A.** It's not on there.

8 **MR. FAKHOURY:** Have a minute, Your Honor?

9 (Pause.)

10 **MR. FAKHOURY:** I have nothing further. Thank you.

11 **THE COURT:** All right. Mr. Hasib.

12 REDIRECT EXAMINATION

13 **BY MR. HASIB:**

14 **Q.** Good afternoon again, Special Agent Reinke.

15 **A.** Good afternoon.

16 **Q.** Let me start where Mr. Fakhoury just left off. He was
17 asking you about some searches after June 5, 2015. And I think
18 he asked you whether there were any searches for Gaziantep or
19 flights to Gaziantep or crossing borders after June 5, 2015.
20 Do you remember those questions?

21 **A.** I do.

22 **Q.** I think your answer was there were no searches of that
23 nature after June 5 of 2015.

24 **A.** Correct.

25 **Q.** Do those searches -- are those -- those searches reflected

1 anywhere else on your timeline?

2 **A.** They are.

3 **Q.** Is there, for example, a search for Gaziantep airport on
4 your timeline?

5 **A.** There is.

6 **Q.** Can you just point the jury to where the Gaziantep airport
7 reference is in your timeline? Let me direct your attention to
8 page 2.

9 **A.** There are references to it on page 2 and page 9.

10 **Q.** Is that where you're referring to directions to Istanbul
11 and directions to Gaziantep, Turkey?

12 **A.** Correct.

13 **Q.** The bottom of page 9?

14 **A.** Correct.

15 **Q.** Special Agent Reinke, the beginning of Mr. Fakhoury's
16 cross-examination he asked you about some surveillances and
17 some FBI interviews that did not occur -- I'm sorry -- that did
18 not appear on your timeline. Do you remember those questions?

19 **A.** I do.

20 **Q.** Have you reviewed the surveillance logs and the
21 surveillance history over the course of this investigation?

22 **A.** I have.

23 **Q.** And is there any reason why those don't appear on your
24 timeline as significant events?

25 **A.** Because they were not of relevant evidentiary value of

1 enough weight to put on here.

2 **MR. FAKHOURY:** Sorry. Objection to the
3 characterization.

4 **THE COURT:** Overruled. You asked the question.

5 **BY MR. HASIB:**

6 **Q.** I think you can answer the question. Why were they -- why
7 did you not include those surveillances on your FBI -- on your
8 timeline?

9 **A.** Because typically when we conduct physical surveillance, I
10 would say 99.9 percent of them are innocuous; persons going
11 about their day. Grocery store, driving for Uber, going to
12 school, doing the things that would be expected -- not that we
13 would expect, but just typical day-to-day life stuff.

14 **Q.** And are you basing that on your experiences doing
15 surveillances in this case? Or your general experience as an
16 FBI agent?

17 **A.** I have not conducted any surveillance operations on this
18 particular case, but I'm basing that off of my multiple
19 surveillance shifts that I've gone on.

20 **Q.** Did you review the surveillance logs that occurred in this
21 case?

22 **A.** I have.

23 **Q.** Mr. Fakhoury asked you some questions about a MacBook.
24 Did you review a forensic image of a MacBook in this case?

25 **A.** I did.

REINKE - REDIRECT / HASIB

1 **Q.** And did you recover any items of investigative
2 significance to you from that MacBook?

3 **A.** I did.

4 **Q.** Did you also review forensic image of a Samsung Galaxy S4?

5 **A.** I did.

6 **Q.** Were those, both electronic devices, seized from the
7 residence of Mr. Shafi?

8 **A.** Yes. They were both seized on July 3, 2015.

9 **Q.** Did you do any comparison as to the information that you
10 derived from the MacBook as opposed to the information you
11 derived from the Samsung Galaxy S4?

12 **A.** I did.

13 **Q.** What comparison did you do and what were the results of
14 that comparison?

15 **A.** The items that were of evidentiary value to the case were
16 on both devices, for the most part.

17 **Q.** Mr. Fakhoury asked you some questions about particular
18 messaging applications. Do you remember those questions?

19 **A.** I do.

20 **Q.** I don't want you to go into any secrets of the FBI. But
21 in general, are there applications that the FBI has trouble
22 intercepting or tracking?

23 **A.** There are many, yes.

24 **Q.** And if -- in your experience if an application, a
25 messaging application, is deleted from someone's phone, would

REINKE - REDIRECT / HASIB

1 that show up on the forensic image of the phone when you
2 capture the phone?

3 **A.** It would not. So for instance --

4 **THE COURT:** I think you've answered the question.

5 **MR. HASIB:** Ms. Yee, can you pull up Exhibit 137-183,
6 Ms. Yee. If you zoom in on the bottom third of that -- lower
7 down. Lower down. Lower down. Sorry. From about row 7810
8 down.

9 **BY MR. HASIB:**

10 **Q.** Do you remember answering some questions about this part
11 of the Google spreadsheet with Mr. Fakhoury?

12 **A.** I do.

13 **Q.** And do you remember he asked you some questions about the
14 searches on August 22, 2004 (sic), regarding the formatting of
15 hard drive searches?

16 **A.** I do.

17 **Q.** Where in relation -- do you recall what date Adam Shafi
18 returned to the United States from Egypt and Turkey?

19 **A.** August 20, 2014.

20 **Q.** Do you see any searches reflected in that search history
21 from August 20 to August 22, 2014?

22 **A.** I do not.

23 **Q.** What's the first search that occurs on August 22, 2014?

24 **A.** Reflexatron@gmail.com conducted a search for how to
25 restore a Mac with a password.

REINKE - REDIRECT / HASIB

1 **Q.** Special Agent Reinke, Mr. Fakhoury asked you some
2 questions about searches that were done for --

3 Scratch that, Your Honor. Sorry about that.

4 **MR. HASIB:** May I have the Elmo, Ma'am Clerk?

5 And Ms. Yee, if you could pull up Government Exhibit
6 7-003, the clip that you -- 7-003. Don't play it just yet.

7 **BY MR. HASIB:**

8 **Q.** Special Agent Reinke, do you recall hearing an audio a
9 moment ago about a conversation between Mr. Shafi and Mr. Karim
10 where they discussed Israel?

11 **A.** I do.

12 **Q.** And that was Government Exhibit -- that was Government
13 Exhibit 7?

14 **A.** Yes.

15 **Q.** And the transcript was Government Exhibit 23?

16 **A.** That's correct.

17 **Q.** Ms. Yee, if you could go ahead and play that clip, please.
18 Hold on a second.

19 (Audio was played but not reported.)

20 **Q.** There is a discussion there about Syria, Special Agent
21 Reinke.

22 **A.** There is.

23 **MR. HASIB:** Your Honor, no further questions for
24 Special Agent Reinke.

25 **THE COURT:** All right.

PROCEEDINGS

1 **MR. FAKHOURY:** I have, like, one question.

2 **THE COURT:** Go ahead, Mr. Fakhoury.

3 **RECROSS-EXAMINATION**

4 **BY MR. FAKHOURY:**

5 **Q.** You testified just now on redirect about a search for
6 Gaziantep on page 9 of your timeline. Do you recall that?

7 **A.** Correct.

8 **Q.** And that's the search on May 31, 2015, right?

9 **A.** Correct.

10 **Q.** Okay.

11 **MR. FAKHOURY:** That's all I wanted to ask, Your Honor.

12 Thank you.

13 **THE COURT:** All right. Agent Reinke, you're -- oh,
14 maybe not.

15 (Off-the-record discussion between counsel.)

16 **MR. FAKHOURY:** The witness can be excused, Your Honor.
17 I think I mentioned an exhibit incorrectly and we're trying to
18 sort that out.

19 **THE COURT:** Okay. You can step down. Thank you.

20 **THE WITNESS:** Thank you, Your Honor.

21 **MR. FAKHOURY:** Just wanted to clarify one thing in the
22 record, Your Honor. I played a clip that I called clip 11. I
23 had -- I referred to it as Exhibit 6, and the transcript as
24 Exhibit 22. And the audio is actually Exhibit 9, and the
25 transcript is Exhibit 25.

THE COURT: Okay.

MR. FAKHOURY: Thank you.

THE COURT: Thank you.

MR. HASIB: Government calls Dr. Lorenzo Vidino to the

THE COURT: Well, before we do that, let's go over to the side for just a second. And I don't need the --

A JUROR: Can I go to the restroom?

THE COURT: Yes. Let's take a five-minute break right now. So we'll be in recess for five minutes.

(Recess taken at 12:20 p.m.)

(Proceedings resumed at 12:25 p.m.)

(The following proceedings were held in open court, outside the presence of the jury:)

MS. LaPUNZINA: Your Honor, we just checked with the expert witness and he changed his plans in the meantime. So he is available for Tuesday, and no longer available on Wednesday. So I apologize. I'm glad we checked.

THE COURT: Yeah. That's better.

MR. FAKHOURY: That's fine with us.

THE COURT: Shall we still follow the same timeline?
Which is to have him start on Tuesday morning?

MS. LaPUNZINA: Yes, Your Honor.

MR. FAKHOURY: (Nod affirmatively.)

MR. MATTHEWS: (Nod affirmatively.)

PROCEEDINGS

1 **THE COURT:** Great.

2 (The following proceedings were heard in open court in the
3 presence of the jury:)

4 **THE COURT:** All right. Please be seated, everybody.

5 Ladies and gentlemen, I have a Labor Day special for you.

6 I appreciate very much your flexibility in being able to
7 stay an extra hour, but because of timing and scheduling we're
8 going to let you go today now and then we'll come back on
9 Tuesday morning at 8:00. And the lawyers were particularly
10 concerned that they wanted to make sure that you had some lunch
11 before you heard the next witness. So we'll just let things go
12 as it is.

13 The admonitions are very important. You have heard now a
14 lot of evidence, and I guess the first thing that I should say,
15 is this case is moving along quite well, and so you don't have
16 -- this case will certainly be resolved well within the time
17 frame that I told you on Monday.

18 And then the second thing is it's really important over
19 this Labor Day weekend, put this case to the side in your
20 minds. Don't do any research, don't talk about it. All of the
21 things that I've told you are just very important. Because
22 you've heard a lot, but you haven't heard everything. And it's
23 very important that you keep an open mind throughout the case.
24 There's more to come next week. I promise you. And until all
25 of the evidence is in, until the lawyers have had a chance to

1 tell you what they think you've heard and should know, until I
2 give you the instructions on the law, and until then you start
3 to talk with each other about what you've learned and what you
4 see and how you think the -- what you think the evidence shows,
5 you just don't want to jump the gun on that. So that's very
6 important.

7 So with all of those admonitions I hope you have a
8 terrific weekend and that you come back at least by five
9 minutes before 8 on Tuesday morning when we'll continue.

10 Thanks very much. Have a good weekend.

11 (The jury exiting the courtroom.)

12 (The following proceedings were held in open court, outside the
13 presence of the jury:)

14 **THE COURT:** All right. Please be seated, everybody.
15 I don't know whether there's -- I gave you my initial thoughts
16 about the jury instructions and I don't know whether anybody
17 wants to say anything now, whether you want to reserve and we
18 can meet again on Tuesday afternoon. So what's -- what's your
19 pleasure? And I'll start with the defense because --

20 **MR. FAKHOURY:** Certainly Your Honor, I appreciate
21 that. It would be my request if we could hold off until
22 Tuesday. Obviously we got the Court's tentatives. I didn't
23 actually have a copy of the instructions. I scrambled to get
24 some. So if I could at least have a little bit of time to
25 think it through and make a record that would be my request if

PROCEEDINGS

1 it's okay with the Court.

2 **THE COURT:** That's fine.

3 **MS. LaPUNZINA:** We, as well. We don't have a copy
4 with us in the courtroom, Your Honor, so we'd prefer to have
5 until Tuesday afternoon to take a look at what we requested
6 compared to what Your Honor indicated. And we'd be in a better
7 position to comment.

8 **THE COURT:** Okay. So do agree on the verdict form if
9 you can by Tuesday afternoon. And then my thought would be --
10 depending on how much argument that there is on it, and you can
11 tell me that in the morning, we could either do it right after
12 court at 1:00 or it would have to lag after my case management
13 conferences, so more like 3:00. But we should do it --
14 definitely do it on Tuesday.

15 **MS. LaPUNZINA:** Thank you, Your Honor.

16 **MR. MATTHEWS:** Thank you, Your Honor.

17 **THE COURT:** Everybody have a good weekend.

18 **MS. LaPUNZINA:** Your Honor, we have one more issue.
19 If we could please ask for the time being if the last sidebar
20 we had, which preceded a stipulation relating to the calls, if
21 we could ask that be placed under seal right now until I
22 confirm whether or not any further order of the Court is
23 necessary to protect that record.

24 **THE COURT:** Okay. Yes.

25 **MR. HASIB:** I think whether Mr. Hasib should be

1 reprimanded by the Department of Justice.

2 **THE COURT:** Well, better you than me. But, yes, we'll
3 put that under seal and then see what we need.

4 **MS. LaPUNZINA:** We'll look into it Your Honor.

5 **MR. FAKHOURY:** Thank you, Your Honor.

6 **THE COURT:** Thank you all.

7 (Court adjourned at 12:30 p.m.)

8 ---oOo---

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3 CERTIFICATE OF REPORTER

4 I certify that the foregoing is a correct transcript
5 from the record of proceedings in the above-entitled matter.

6
7 DATE: Tuesday, October 16, 2018

8
9
10 Vicki Eastvold

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

Vicki Eastvold, RMR, CRR
U.S. Court Reporter